8TH NATIONAL ASSEMBLY
THIRD SESSION
NO. 9

SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Thursday, 13th July, 2017

1. The Senate met at 10:46 a.m. The Deputy Senate President read Prayers.

2. **Votes and Proceedings:**
The Deputy Senate President examined the Votes and Proceedings of Wednesday, 12th June, 2017.

Question was put and the Votes and Proceedings were approved.

3. **Announcements:**
(a) Public Hearing:
The Deputy Senate President read a letter from Senator Abubakar Kyari (*Borno North*) as follows:

FEDERAL REPUBLIC OF NIGERIA
THE SENATE
AD HOC COMMITTEE ON PLANNED CONCESSION OF THE PORT HARCOURT REFINERY TO AGIP/ENI AND OANDO PLC

July 11, 2017

The President of the Senate,
Senate of the Federal Republic of Nigeria,
National Assembly,
Abuja.

ANNOUNCEMENT/INVITATION TO PUBLIC HEARING

Kindly recall that the Senate of the Federal Republic of Nigeria at its plenary on Tuesday, May 30, 2017 constituted the Senate Ad hoc Committee on the Planned Concession of Port Harcourt Refinery to AGIP/ENI and Oando Plc; to carry out holistic investigation to determine how and why such a deal was sealed and the criteria used to select Agip/ENI and OANDO Plc, to maintain and operate the Port-Harcourt Refinery at what cost and time frame.

Accordingly, Distinguished Senators are cordially invited to the Public Hearing slated for Thursday, July 13, 2017 at Conference Room 231, 2nd Floor, Senate New Wing, National Assembly Complex Abuja by 11 am.

Please accept the assurances of the Committee's highest regard, always.

Yours Sincerely,
(Signed)
SENATOR ABUBAKAR KYARI
Chairman

(b) Public Hearing:
The Deputy Senate President read a letter from Senator Hope O. Uzodinma (*Imo West*) as follows:

FEDERAL REPUBLIC OF NIGERIA
THE SENATE
COMMITTEE ON CUSTOMS, EXCISE & TARIFF

July 12, 2017

The President of the Senate,
Senate of the Federal Republic of Nigeria,
National Assembly,
Abuja.

My great leader,

ANNOUNCEMENT/INVITATION TO PUBLIC HEARING

Recall that the Senate of the Federal Republic of Nigeria, at its sitting on Tuesday, 13th June, 2017, debated a motion on Smuggling - A threat to Nigeria's quest to self-sufficiency in rice production and resolved to mandate the Senate Committee on Customs, Excise & Tariff to carry out a holistic investigation on the operation of CISS and NESS (import and export), and identify those behind the smuggling of goods into Nigeria and abuse of foreign exchange utilization with a view to bringing them to book.

Accordingly, Distinguished Senators are cordially invited to the Public Hearing slated for Monday, July 17, 2017 at Conference Room 231, 2nd Floor, Senate New Wing, National Assembly Complex, Abuja by 11 am.

Please accept the assurances of the Committee's highest regard, always.

(Signed)
SENATOR HOPE UZODINMA
Chairman

(c) Demise of HRH Eze, Senator Isidore Obinna Obasi:
The Deputy Senate President read a letter from Comrade Francis Nzewata and three others as follows:

THE PALACE OF EZE AKARAKA II
HRH EZE SENATOR, (DR.) ISIDORE OBINNA OBASI
Ihitteafoukwu, Ahiazu Mbaise Imo State, Nigeria

June 19, 2017

His Excellency
The Senate President
Rt. Hon. Dr Abubakar Bukola Saraki, CON
National Assembly Complex
Abuja

Your Excellency,

DEATH OF- HRH EZE SENATOR ISIDORE OBINNA OBASI, AKARAKA II OF IHITTEAFOUKWU AUTONOMOUS COMMUNITY, AHIAZU MBAISE LGA

On behalf of the family, Eze in Council and the entire people of Ihitteafoukwu autonomous community, it is with heavy hearts that we announce to you the passing of our revered Traditional Ruler, HRH Eze, Senator Isidore Obinna Obasi, Akaraka II of Ihitteafoukwu, Ahiazu Mbaise LG.A., Imo State. He was aged 82 years. Indeed, this is a difficult and sad period for our community as we recall the sterling qualities of our late Eze.

Senate President, you may recall that late Eze, Senator Isidore Obinna Obasi, served Imo State and Nigeria meritoriously in his capacity as a Member of the Federal House of Representatives between 1979 -1983, and also a Senator of the Federal Republic of Nigeria in 1983. He was an astute politician, a vibrant and consummate lawmaker and an outstanding custodian of our tradition and culture. May we inform Your Excellency, the Senate President and indeed the Senate of the Federal Republic of Nigeria that our late Eze Senator Isidore Obasi will be laid to rest on August 12, 2017 by 11am at the Palace of Peace, Ihitteafoukwu, Ahiazu Mbaise LGA, Imo State .

Your Excellency, your esteemed presence will be highly appreciated by his family and Ihitteafoukwu community as we pay our last respects to our Traditional Ruler and your departed colleague.

Accept the assurances of our highest regards and esteem.

Sincerely
(Signed)
Comrade Francis Nzenwata
Chairman, Central Burial Planning Committee

(Signed)
Chief Jerry Uchendu
Palace Secretary

(Signed)
Hon. Kevin Agbaegbu
Chairman, Publicity/Protocol

(Signed)
Chief Tony Anakani
Secretary Publicity/Protocol

Cc
Senator Samuel Anyanwu
Imo East Senatorial District

(d) ***Acknowledgment:***
The Deputy Senate President acknowledged the presence of the following who were in the gallery to observe Senate Proceedings:

(i) Staff and Students of Brickhall School, Kaura District, Abuja;

(ii) Staff and Students of Baptist High School, Masaka, Nasarawa State; and

(iii) Staff and Students of Rightsteps Montessori Academy, Duboyi District, Abuja.

4. **Petitions:**

(*i*) Rising on Rule 41, Senator Ovie A. Omo-Agege *(Delta Central)* drew the attention of the Senate to two (2) petitions from:

(a) Chief Success Obioma, against Hon. Minister of Federal Capital Territory and the Chairman, Economic and Financial Crimes Commission (EFCC), over fraudulent conversion of properties; and

(b) Hon. V. C. Madumere on behalf of Chief Victor M. Nwinee, against Shell Petroleum Development Company of Nigeria Limited, over non payment of oil spillage compensation.

He urged the Senate to look into the matters.

Petitions laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Rule 41(3)] to report within two (2) weeks.

(*ii*) Rising on Rule 41, Senator Nelson A. Efiong *(Akwa Ibom South)* drew the attention of the Senate to two (2) petitions from:

(a) Coalition of the four House Unions, against the Governing Council of the Alvan Ikoku Federal College of Education Owerri, over the retirement of Mrs. Blessing C. Ijeoma; and

(b) Onwuka Egwu & Co. On behalf of Chief Victor Amadi and three others, against the Trade Fair management Board, over illegal sales of Federal Government landed properties within the Trade Fair Complex.

He urged the Senate to look into the matters.

Petitions laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Rule 41(3)] to report within two (2) weeks.

(*iii*) Rising on Rule 41, Senator Barau I. Jibrin *(Kano North)* drew the attention of the Senate to a petition from HRH Eze Kingsley Odu on behalf of Ndindi Ihiagwa Autonomous Community, Owerri West Local Government Area, against Enugu Electricity Distribution Company, over electricity tariff. He urged the Senate to look into the matter.

Petition laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Rule 41(3)] to report within two (2) weeks.

(*iv*) Rising on Rule 41, Senator Mao A. Ohuabunwa *(Abia North)* drew the attention of the Senate to a petition from his Constituent, Council of Ohafia Monarchs on behalf of Mr. Emmanuel M. Awa, against Warrant Officer Unaji B. Enejor, Naval Officer, over assault. He urged the Senate to look into the matter.

Petition laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Rule 41(3)] to report within two (2) weeks.

(*v*) Rising on Rule 41, Senator Albert A. Bassey *(Akwa Ibom-North-East)* drew the attention of the Senate to a petition from his Constituent, Corporal Ubong Isuekpe, against the Nigeria Police, over wrongful dismissal. He urged the Senate to look into the matter.

Petition laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Rule 41(3)] to report within two (2) weeks.

5. **Personal Explanation:**
Rising on Rule 43, Senator Samuel N. Anyanwu *(Imo East)* drew the attention of the Senate to the demise of His Royal Majesty Eze, Senator, Dr. Isidore Obinna Obasi, Akaraka II of Ihitteaforukwe Autonomous Community, Imo State, who died at the age of Eighty-Two (82) years. He stated that the late Eze was a Senator of the Federal Republic of Nigeria in the defunct Second Republic, former Hon. Member of the House of Representatives, a paramount traditional ruler and a respected political leader. His demised is a great loss to the people of Imo State and Nigeria in General. He urged the Senate to observe a minute silence in his honour and also send a delegation to commiserate with the family, people and Government of Imo State.

One minute silence accordingly observed in honour of the deceased.

6. **Personal Explanation:**
Rising on Rule 43, Senator Albert A. Bassey *(Akwa Ibom-North-East)* drew the attention of the Senate to the advertorial publication on page 16 of the Leadership Newspaper dated 13th July, 2017 by the Kogi State Government, with respect to the comment of the Governor of Akwa Ibom State, His Excellency, Udom Emmanuel in which he described Senator Dino Melaye recall saga by Kogi West Senatorial District as a call to replace a "General" with a "Recruit". He urged the Senate to advice the Governor of Kogi State to use the State funds judiciously rather than media attack on pages of newspapers.

7. **Presentation of Bills:**

(*i*) National Fiscal Stabilization Levy Bill, 2017 (SB. 490) — *Read the First Time.*

(*ii*) Federal College of Education (Special) Onueke Ezza South, Ebonyi State (Establishment, etc.) Bill, 2017 (SB. 495) — *Read the First Time.*

(*iii*) Federal College of Education (Technical) Arochukwu (Establishment, etc.) Bill, 2017 (SB. 515) — *Read the First Time.*

(*iv*) National Centre for Agricultural Mechanization Act CAP N13 LFN 2004 (Amendment) Bill, 2017 (SB. 522) — *Read the First Time.*

(*v*) Federal Polytechnic Mpu, Enugu State (Establishment, etc.) Bill, 2017 (SB. 528) — *Read the First Time.*

(*vi*) Federal College of Dental Technology and Therapy Enugu Bill, 2017 (HB. 1,018) — *Read the First Time.*

8. **Conference Committee:**
Report on the Forestry Research Institute of Nigeria (Establishment, etc.) Bill, 2017 (SB. 14):
Motion made: That the Senate do consider the Report of the Conference Committee on Forestry Research Institute of Nigeria (Establishment, etc.) Bill, 2017 (Senator Oluremi S. Tinubu (*Lagos Central*).

Question put and agreed to.

Report presented.

Report accordingly adopted.

9. **Avoidance of Double Taxation (Between the Federal Republic of Nigeria and the Kingdom of Sweden) Bill, 2017 (HB. 443) - Concurrence:**
Motion made: That a Bill for an Act to Provide for the Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Kingdom of Sweden and for Related Matters, 2017 be read the Second Time (*Senate Leader)*.

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Provide for the Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Kingdom of Sweden and for Related Matters, 2017 (*Concurrence*) (*Senate Leader)*.

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO PROVIDE FOR THE DOMESTICATION AND ENFORCEMENT IN NIGERIA OF THE AVOIDANCE OF DOUBLE TAXATION AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE KINGDOM OF SWEDEN AND FOR RELATED MATTERS, 2017.

Clause 1: **Domestication and enforcement of the Agreement between the Federal Republic of Nigeria and the Kingdom of Sweden on the avoidance of Double Taxation and prevention of Fiscal Evasion.**
As from the commencement of this Bill, the provisions of the Agreement between the Federal Republic of Nigeria and the Kingdom of Sweden on the Avoidance of Double Taxation and Prevention of Fiscal Evasion (in this Bill referred to as Agreement) set out in the First Schedule to this Bill, shall:

(*a*) have the force of law;

(*b*) be given full recognition and effect; and

(*c*) be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Protocol to the avoidance of Double Taxation Agreement between the Federal Republic of Nigeria and the Kingdom of Sweden.**
The Agreement shall include the provisions of the Protocol set out in the Second Schedule to this Bill for the effective application of the domestic laws in Nigeria and the laws of the Kingdom of Sweden concerning taxes covered by the Agreement, particularly provisions on the prevention of fiscal evasion with respect to those taxes.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Short Title.**
This Bill may be cited as the Avoidance of Double Taxation (Between the Federal Republic of Nigeria and the Kingdom of Sweden) Bill, 2017.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

SCHEDULES

FIRST SCHEDULE

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

The Government of the Kingdom of Sweden and the Government of the Federal Republic of Nigeria, desiring to conclude an Agreement (or the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, have agreed as follows:

ARTICLE 1 — PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both or the Contracting States.

ARTICLE 2 — TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital gains imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property. as well as taxes on capital appreciation.

3. The existing taxes to which trns Agreement shall apply are:

(*a*) in Nigeria:

(*i*) the Personal Income Tax:

(*ii*) the Companies Income Tax;

(*iii*) the Petroleum Profits Tax:

(*iv*) the Capital Gains Tax; and

(*v*) the Education Tax (hereinafter referred to as "Nigerian tax"):

(*b*) in Sweden:

(*i*) the national income tax (den statliga inkomstskatlen):

(*ii*) the withholding tax on dividends (kupongskatten);

(*iii*) the income tax on non-residents (den sSrskilda inkomststatten for Ulomlands bosatta);

(*iv*) the income tax on non-resident artistes and athletes (den sSrskilda mkornstskatten for utomlands bosatta arlister m.fl,): and

(*v*) the municipal income tax (den kommunala inkomstskatten) (hereinafter referred to as "Swedish tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of the taxes referred to in paragraph 3 of this Article. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

ARTICLE 3 — GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(*a*) the term "Nigeria" means the Federal Republic of Nigeria including any area outside the territorial waters of the Federal Republic of Nigeria which in accordance with international law has been or may hereafter be designated, under the laws of the Federal Republic of Nigeria concerning the Continental Shelf, as an area within which the rig his of the Federal Republic of Nigeria with respect to the sea-bed and subsoil and their natural resources may be exercised;

(*b*) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(*c*) the terms "a Contracting State" and "the other Contracting State" mean Nigeria or Sweden, as the context requires;

(*d*) the term "person" includes an individual, a company and any other body of persons;

(*e*) the term "company" means anybody corporate or any entity that is treated as a body corporate for tax purposes;

(*f*) the term "enterprise" applies to the carrying on of any business,

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State:

(*h*) the term "competent authority" means:

(*i*) in Nigeria, the Minister of Finance or his authorized representative;

(ii) in Sweden, the Minister of Finance, his authorised representative or the authority which is designated as a competent authority for the purposes of this Agreement;

(i) the term "International traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "national" means:

(i) any individual possessing the citizenship or nationality of a Contracting State;

(ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State;

(k) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable lax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4 — RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State, any governmental body or agency, political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting Stales, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

ARTICLE 5 — PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

The term "permanent establishment" includes especially:

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop;

(*f*) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(*g*) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months; and

(*h*) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than six months within any twelve month period.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(*a*) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise:

(*d*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise:

(*e*) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character:

(*f*) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (*a*) to (*e*) of this Article, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character sales outlet notwithstanding the fact that such fixed place of business is otherwise maintained for any of the activities mentioned in paragraph 3 of this Article.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

6. A person, other than an agent at an independent status to whom paragraph 5 of this Article applies/who acts in a Contracting State on behalf of an enterprise of the other Contracting State shall, unless the activities of such person are limited to those mentioned in paragraph 3 of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph, be deemed to be a permanent establishment of that enterprise in the first-mentioned State if:

(*a*) he has, and habitually exercises in that State, an authority to conclude contracts or carries on any business activities on behalf of the enterprise, or

(*b*) he habitually secures orders for the sales of goods or merchandise in that State exclusively or almost exclusively on behalf of the enterprise or other enterprises controlled by it or which have a controlling interest in it.

7. The fact that a company which is a resident of a Contacting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6 — INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable properly" shall have the meaning which it has under the law or the Contracting State in which the properly in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, buildings of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise.

ARTICLE 7 — BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits ot the enterprise may be taxed in the other State but only so much of them as is attributable to:

(*a*) that permanent establishment:

(*b*) sates in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

(*c*) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment

2. Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are shown to have been incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent io the head office of the enterprise or any of its other offices.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. Provided that where that permanent establishment is also used as a sales outlet for the goods or merchandise so purchased the profits on such sales may be attributed to that permanent establishment. For the purpose of this paragraph sales outlet shall be deemed to have the same meaning as in paragraph 4 of Article 5.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 — SHIPPING AND AIR TRANSPORT

1. A resident of a Contracting State shall on reciprocal basis be exempt from tax in the other Contracting State in respect of profits or gains derived from the operations of ships or aircraft in international traffic.

2. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 of this Article shall apply only to such part of the profits as corresponds to the participation held in that consortium by SAS Sverige AS, the Swedish partner of SAS.

3. The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency

ARTICLE 9 — ASSOCIATED ENTERPRISES

1. Where:

(*a*) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other. Contracting Stale, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but jar those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10 — DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

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

(*b*) 10 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of these limitations.

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

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a Company which is a resident of a Contracting State derives profit or income from the other Contracting State, the other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the Company's undistributed profits to a tax on the Company" s undistributed profit, even if the dividends paid or the undistributed profits consists wholly or partly of profits or income arising in such other State.

6. The provisions of this article shall not apply if the right given raise to the dividend was created or assigned mainly for the purpose of taking advantage of this article and not for bona-fide commercial reasons.

ARTICLE 11 — INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 7.5 per cent of the gross amount of the interest. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation

3. Notwithstanding the provisions of paragraph 2 of this Article, interest mentioned in paragraph 1 of this Article shall be taxable only in the Contracting State where the beneficial owner of the interest is a resident if one of the following requirements is fulfilled:

(*a*) the recipient of the interest is the Contracting State itself, a statutory body, a political subdivision, a focal authority thereof or any other agency or instrumentality thereof: or

(*b*) the interest is paid in respect of a loan which has been guaranteed by the Government of the Contracting State where the payer of the interest is a resident; or

(*c*) in the case of Sweden, the interest is paid in respect of a loan granted or guaranteed by The Swedish International Development Cooperation Agency (SIDA). The Swedish Export Credits Guarantee Board (Exportkreditnamnden) or any other institution of a public character with the objective to promote exports or development.

4. The term "interest" as used in this Article means income tram debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits and in particular, income tram government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State due regard being had to the other provisions of this Agreement.

8. The provisions of this Article shall not apply if the right or property giving rise to the interest was created or assigned mainly for the purpose of taking advantage of this Article and not tor bona-fide commercial reasons.

ARTICLE 12 — ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in tile Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 7.5 per cent of the gross amount of the royalties. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise. Through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment in such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not has in a Contracting Stale a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due- regard being had to the other provisions of this Agreement.

7. The provisions of this Article shall not apply if the right or property giving rise to the royalties was created or assigned mainly tor the purpose of taking advantage of this Article and not for bona-fide commercial reasons.

ARTICLE 13 — CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State, or from the alienation of shares in a company the assets of which consist principally of such property, may be taxed in that other State.

2. Gains from the alienation of movable property forming pari of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation at such ships or aircraft, shall be taxable only in that State.

With respect to gains derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such part of the gains as corresponds to the participation held in that consortium by SAS Sverige AB the Swedish partner of SAS.

4. Subject to the provisions of paragraph 1 of this Article, gains derived by a resident of a Contracting State from the alienation of shares in a company shall be taxable only in that State except if the alienator is an individual who has been a resident of the other Contracting State and who has become a resident of the first-mentioned Contracting State, in such case the gains may be taxed in the other Contracting State but only if the company, which shares are being alienated, is a resident of that other State and if the alienation of the shares occurs 21 any time during the ten years next following the date on which the individual has ceased to be a resident of that other State.

ARTICLE 14 — INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(*a*) the recipient is present in tile other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and

(*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(*c*) the remuneration is not borne by a permanent establishment which the employer has in the other State

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

ARTICLE 15 — DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 16 — ARTISTES AND SPORTS PERSONS

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting State as an artiste, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an artiste of a sportsperson in his capacity as such accrues not to the artiste or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the artiste or sportsperson are exercised.

ARTICLE 17 — PENSIONS, ANNUITIES AND SIMILAR PAYMENTS

1. Pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

2. The term "annuity" means a stated sum payable periodically at stated times during the or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 18 — GOVERNMENT SERVICE

1. (*a*) Salaries, wages and other remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(*b*) However, such salaries, wages and other remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:

(*i*) is a national of that State; or

(*ii*) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 14, 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 19 — STUDENTS AND TRAINEES

Payments which a student or business trainee or apprentice who is or was immediately before visiting a Contracting State a resident of the other contracting State and who is present in the first-mentioned State solely for tile purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 20 — TEACHERS AND RESEARCHERS

1. Notwithstanding the provisions of Article 14, a professor or teacher who visits a Contracting State for the purpose of teaching or research at a university or any other similarly recognized educational institution in that State and who, immediately before that visit, was a resident of the other Contracting State shall be exempt from tax in the first-mentioned State in respect of any remuneration for such teaching and research for a period not exceeding one year from the date of his first arrival in the first- mentioned State for such purposes, provided that such remuneration is derived by him from sources in the other Contracting State.

2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the benefit of a specific person or persons.

ARTICLE 21 — OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment In such case the provisions of Article 7 shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 22 — ELIMINATION OF DOUBLE TAXATION

1. In the case of Nigeria:
Subject to the provisions of the laws of Nigeria regarding the allowance as a credit against Nigerian tax of tax payable in a territory outside Nigeria (which shall not affect the general principle thereof) Swedish tax payable under the laws of Sweden and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains lrom sources within Sweden (excluding in the case of a dividend, tax payable in respect of the profits out of which dividend is paid) shall be allowed as a credit against any Nigerian tax computed by reference to the same profits, income or chargeable gains by reference to which Swedish tax is computed.

2. In the case of Sweden:

(*a*) Where a resident of Sweden derives income which under the laws of Nigeria and in accordance with the provisions of this Agreement may be taxed in Nigeria, Sweden shall allow — subject to the provisions of the laws of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) — as a deduction from the tax on such income, an amount equal to the Nigerian tax paid in respect of such income.

(*b*) Where a resident of Sweden derives income which, in accordance with the provisions of this agreement, shall be taxable only in Nigeria, Sweden may, when determining the graduated rate of Swedish tax, take into account tile income which shall be taxable only in Nigeria.

(*c*) Notwithstanding the provisions of sub-paragraph (*a*) of this paragraph, dividends paid by a company which is a resident of Nigeria to a company which is a resident of Sweden shall be exempt from Swedish tax according to the provisions of Swedish laws governing the exemption of tax on dividends paid to Swedish companies by companies abroad.

(*d*) For the purpose of sub-paragraph (*a*) of this paragraph, when a Swedish company has a permanent establishment in Nigeria, the term "Nigerian tax paid" shall be deemed to include the Nigerian tax which would have been paid but for any reduction or time-limited exemption of tax granted under incentive provisions contained in Nigerian laws designed to promote economic development to the extent that such exemption or reduction is granted for profits from the export of Nigerian products, the mining industry, the installation, operation or maintenance of fixed or mobile telecommunication systems and related equipment, industrial and manufacturing activities: oil- and gas Industry as well as agriculture and tourism (including restaurants and hotels), provided that the activities have been carried out in Nigeria. For the purpose of subparagraph (*c*) of this paragraph, a tax of 15 per cent shall be considered to have been paid for such activities under those conditions mentioned in the previous sentence.

(*e*) For the purposes of sub-paragraph (*a*) of this paragraph the Nigerian tax paid in respect of royalties received as a consideration for the use of any patent, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, shall, where it has been used in the export of Nigerian products, the mining industry, the installation, operation or maintenance of fixed or mobile telecommunication systems and related equipment, industrial and manufacturing activities, oil-and gas industry as well as agriculture and tourism (including restaurants and hotels), provided that the activities have been carried out in Nigeria, in addition to the Nigerian tax actually paid be considered to have been paid with an additional amount of 5 per cent, or if no such tax has been charged be considered to have been paid with 5 per cent, of the gross amount of such royalties.

(*f*) The provisions of sub-paragraphs (*d*) and (*e*) shall apply only for the first ten years during which this Agreement is effective. This period may be extended by a mutual agreement between the competent authorities.

ARTICLE 23 — NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs or reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident or the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or mere residents of the other Contracting State, shall not be subject in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected,

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 24 — MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within six years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution. to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding anytime limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shalt endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 25 — EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information In public court proceedings or in judicial decisions. The competent authorities may through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made including, where appropriate, exchanges at information regarding tax avoidance.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on a Contracting State the obligation:

(*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(*b*) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 26 — LIMITATIONS ON BENEFITS

Notwithstanding any other provisions of this Agreement, where:

(*a*) a company that is a resident of a Contracting State derives its income primarily from other States

(*i*) from activities such as banking, shipping, financing or insurance or

(*ii*) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States; and

(*b*) such income would bear a significantly lower tax under the laws of that State than income from similar activities carried out within that State or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that State, as the case may be,

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RTICLE 27 — MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

in this Agreement shall affect the fiscal privileges of members of diplomatic missions and posts under the general rules of international law or under the provisions of special nts.

ARTICLE 28 — ENTRY INTO FORCE

Each of the Contracting States shall notify the other of the completion of the procedures equired by its laws for the entry into force of this Agreement.

he Agreement shall enter into force on the thirtieth day after the receipt of the later of ese notifications and shall thereupon have effect:

) in Nigeria:

(*i*) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after the first day of January in the calendar year immediately following that in which the Agreement enters into force;

(*ii*) in respect of other taxes, in relation to income of any basis period beginning on or after the first day of January in the calendar year immediately following that in which the Agreement enters into force;

in Sweden:

(*i*) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Agreement enters into force:

(*ii*) in respect of other taxes on income and on capital gains, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the date on which the Agreement enters into force.

ARTICLE 29 — TERMINATION

nent shall remain in force until terminated by a Contracting State. Either Contracting erminate the Agreement, through diplomatic channels, by giving written notice of at least six months before the end of any calendar year. In such case, the Agreement have effect:

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in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or a1ter the first day of January in the calendar year immediately following the end of the six-month period;

in respect of other taxes, in relation to income 01 any basis period beginning on or after the first day of January in the calendar year immediately following the end of the six-month period;

3. The competent authorities of the Contracting States shalt endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 25 — EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information In public court proceedings or in judicial decisions. The competent authorities may through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made including, where appropriate, exchanges at information regarding tax avoidance.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on a Contracting State the obligation:

   (*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

   (*b*) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

   (*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 26 — LIMITATIONS ON BENEFITS

Notwithstanding any other provisions of this Agreement, where:

(*a*) a company that is a resident of a Contracting State derives its income primarily from other States

   (*i*) from activities such as banking, shipping, financing or insurance or

   (*ii*) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States; and

(*b*) such income would bear a significantly lower tax under the laws of that State than income from similar activities carried out within that State or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that State, as the case may be, any provisions of this Agreement conferring an exemption or a reduction of tax shall not apply to the income of such company or to the dividends paid by such company.

ARTICLE 27 — MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions and consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 28 — ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other of the completion of the procedures required by its laws for the entry into force of this Agreement.

2. The Agreement shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect:

(*a*) in Nigeria:

(*i*) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after the first day of January in the calendar year immediately following that in which the Agreement enters into force;

(*ii*) in respect of other taxes, in relation to income of any basis period beginning on or after the first day of January in the calendar year immediately following that in which the Agreement enters into force;

(*b*) in Sweden:

(*i*) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Agreement enters into force:

(*ii*) in respect of other taxes on income and on capital gains, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the date on which the Agreement enters into force.

ARTICLE 29 — TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such case, the Agreement shall cease to have effect:

(*a*) in Nigeria:

(*i*) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or a1ter the first day of January in the calendar year immediately following the end of the six-month period;

(*ii*) in respect of other taxes, in relation to income 01 any basis period beginning on or after the first day of January in the calendar year immediately following the end of the six-month period;

(*b*) in Sweden:

(*i*) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the end of the six-month period:

(*ii*) in respect of other taxes on income and on capital gains, on income chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six-month period.

In witness whereof the undersigned being duly authorised thereto hve signed this Agreement.

Done at Stockholm, this 18th day of November, 2004, in duplicates in the English language.

(*Signed*)	(*Signed*)
FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN	FOR THE GOVERNMENT OF FEDERAL REPUBLIC OF NIGERIA

Question that the provisions of the First Schedule stand part of the Bill — Agreed to.

SECOND SCHEDULE

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

At the moment of signing the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains between the Kingdom of Sweden and the Federal Republic of Nigeria, the Contracting States have agreed that the following provisions shall form an integral part of the Agreement:

Article 5

1. It is agreed that it any agreement or convention between Nigeria and a member State of the Organisation for Economic Cooperation and Development (DECO) provides for a longer time period than any of those provided for in sub-paragraph (*g*) or (*h*) of paragraph 201 Article 5 (either generally or in respect of specific activities), such longer time period or periods shall automatically apply (either generally or in respect of specific activities) it a resident of Nigeria carries on any such activities in Sweden or if a resident of Sweden carries on any such activities in Nigeria, under the same conditions as if such longer time period or periods had been specified in those sub-paragraphs.

2. It is agreed that if in any agreement or convention between Nigeria and a member state of the Organisation for Economic Cooperation and Development (DECO) signed after the signing of this Agreement the word "delivery" is included in a provision or provisions corresponding to subparagraph (*a*) or sub-paragraph (*b*) of paragraph 3 of Article 5, or both sub-paragraphs, sub-paragraphs (*a*) and (*b*) of paragraph 3 of Article 5 of this Agreement shall automatically be applied as if the word "delivery" had been so included from the same time when the agreement or convention between Nigeria and the third state becomes effective.

Article 7

It is agreed that the provisions of sub-paragraphs (*b*) and (*c*) of paragraph 1 of Article 7 shall apply only where sales and business activities are effected directly by the enterprise in the other Contracting State through other outlets than the permanent establishment for the purpose of depleting the profits that would otherwise have been attributable to the permanent establishment and—

(*i*) the profits of the permanent establishment are not determined on the basis of the total amount received by the enterprise, but are determined on the basis of the remuneration which it is expected to make if it were a distinct and independent enterprise engaged in the same or similar activities under the same or similar conditions;

(*ii*) the profits of such permanent establishment are not determined on the basis of the total amount of the contract, but are determined on the basis of that part of the contract which is effectively carried out by the permanent establishment.

Article 8

1. If the competent authorities of the Contracting States by mutual agreement conclude that profits are derived by a resident or residents of a Contracting State from the operation of ships or aircraft in international traffic to or from pi aces in the other Contracting State and that such profits are not derived by a resident or residents of the other Contracting State from the operation of ships or aircraft in international traffic to or from places in the first-mentioned State, and that such situation has a permanent nature, then the condition of reciprocity envisaged in paragraph 1 of Article 8 for tax exemption is not met. In such case the tax charged shall not exceed 1 per cent of the earnings of the enterprise derived from the other Contracting State. For the purpose of the foregoing sentence, the term "earnings" means income derived by a resident of a Contracting State from the carriage of passengers, mail, livestock or goods boarded or loaded in the other Contracting State, less refunds and payments of wages and salaries of ground State and excluding income derived from the carriage of passengers, mail, livestock or goods which are brought to that other State solely for transhipments or transfers.

2. If any agreement or convention for the avoidance of double taxation, or protocol thereto, or any other international arrangement concluded after the date of the signing of this Agreement between-Nigeria and a third State provides for rates of taxation (including nil rates) on the profits derived from the operation of ships or aircraft in international traffic which are lower than the rate provided for under this Protocol, then the same lower rate shall apply under this Agreement and shall have effect from the latter of the dates of which this Agreement or the relevant convention, agreement, protocol or other international arrangement between Nigeria and a third state becomes effective.

Articles 10,11 and 12

In respect of paragraph 6 of Article 10, paragraph 8 of Article 11 and paragraph 7 of Article 12, it is agreed that when a Contracting State contemplates to deny benefits to a resident of the other Contracting State, the competent authorities should consult with each other.

It is agreed that if any agreement or convention between Nigeria and a member state of the Organisation for Economic Cooperation and Development (OECD) provides that Nigeria shall exempt from tax dividends, interest or royalties (either generally or in respect of specific categories 0; dividends, interest or royalties) arising in Nigeria, or limit the tax charged in Nigeria on such dividends, interest or royalties (either generally or in respect of specific categories of dividends, interest or royalties) to a rate lower than that provided for in sub-paragraph (*a*) of paragraph 2 of Article 10, paragraph 2 of Article 11 or paragraph 2 of Article 12 of the Agreement, such exemption or lower rate shall automatically apply to dividends, interest or royalties (either generally or in respect of those specific categories of dividends, interest or royalties) arising in Nigeria and beneficially owned by a resident of Sweden and dividends, interest or royalties (either generally or in respect of those specific categories of dividends, interest or royalties) arising in Sweden and beneficially owned by a resident of Nigeria, under the same conditions as if such exemption or lower rate had been specified in those sub-paragraphs or paragraphs.

In witness whereof the undersigned being duly authorised thereto have signed this Protocol.

Done at Stockholm, this 18th day of November, 2004, in duplicate in the English language.

(Signed)	*(Signed)*
FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN	FOR THE GOVERNMENT OF FEDERAL REPUBLIC OF NIGERIA

Question that the provisions of the Second Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Provide for the Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Kingdom of Sweden and for Related Matters, 2017 and approved as follows:

Clauses 1- 3	—	As Recommended
Schedules 1&2	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

10. **Avoidance of Double Taxation (Between the Federal Republic of Nigeria and the Kingdom of Spain) Bill, 2017 (HB. 444) - Concurrence:**
Motion made: That a Bill for an Act to Provide for the Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Kingdom of Spain and for Related Matters, 2017 be read the Second Time (*Senate Leader).*

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Provide for the Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Kingdom of Spain and for Related Matters, 2017(*Concurrence*) (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO PROVIDE FOR THE DOMESTICATION AND ENFORCEMENT IN NIGERIA OF THE AVOIDANCE OF DOUBLE TAXATION AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE KINGDOM OF SPAIN AND FOR RELATED MATTERS, 2017.

Clause 1: **Domestication and Enforcement of the Agreement between the Federal Republic of Nigeria and the Kingdom of Spain on the avoidance of Double Taxation and prevention of Fiscal Evasion.**
As from the commencement of this Bill, the provisions of the Agreement between the Federal Republic of Nigeria and the Kingdom of Spain on the Avoidance of Double Taxation and Prevention of Fiscal Evasion (in this Bill referred to as Agreement) set out in the First Schedule to this Bill, shall:

(*a*) have the force of law;

(*b*) be given full recognition and effect; and

(*c*) be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Protocol to the avoidance of Double Taxation Agreement between the Federal Republic of Nigeria and the Kingdom of Spain.**
The Agreement shall include the provisions of the Protocol set out in the Second Schedule to this Bill for the effective application of the domestic laws in Nigeria and the laws of the Kingdom of Spain concerning taxes covered by the Agreement, particularly provisions on the prevention of fiscal evasion with respect to those taxes.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Short Title.**
This Bill may be cited as the Avoidance of Double Taxation (Between the Federal Republic of Nigeria and the Kingdom of Spain) Bill, 2017.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

SCHEDULES

FIRST SCHEDULE

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

The Kingdom of Spain and the Federal Republic of Nigeria, desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, have agreed as follows:

CHAPTER I

SCOPE OF THE AGREEMENT

Article 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are in particular:

(*a*) in Spain:

(*i*) the income tax on individuals;

(*ii*) the corporation tax;

(*iii*) the income tax on non residents;

(*iv*) the capital Tax; and

(*v*) local taxes on income arid on capital (hereinafter referred to as "Spanish Tax").

(*b*) in Nigeria:

(*i*) the Personal Income Tax;

(*ii*) the Companies Income Tax;

(*iii*) the Petroleum Profits "Tax;

(*iv*) the Capital Gains Tax;

(*v*) the Education Tax; and

(*vi*) other taxes on income and capital (hereinafter referred to as "Nigerian Tax").

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(*a*) the term "Spain" means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain, including its territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent. waters, and their natural resources;

(*b*) the term" Nigeria" means the Federal Republic of Nigeria including any area outside the territorial water of the Federal Republic of Nigeria which in accordance with international law has been or may hereafter be designated, under the law of the Federal Republic of Nigeria concerning the Continental Shelf, as an area within which the right of the Federal Republic of Nigeria with respect to the sea-bed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future;

(*c*) the terms "Contracting State" and "the other Contracting State" mean Spain or Nigeria as the context requires;

(*d*) the term "person" includes an individual, a company and any other body of persons;

(*e*) the term "company" means anybody corporate or any entity that is treated as a body corporate for tax purposes;

(*f*) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident "of the other Contracting State;

(*g*) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(*h*) the term "competent authority" means:

(*i*) in Spain: the Minister of Economy and Finance or his authorised representative;

(*ii*) in Nigeria the Minister of Finance or his authorised representative;

(*i*) the term "national" means:

(*i*) any individual possessing the citizenship or nationality of a Contracting State;

(*ii*) any legal person, partnership or association or other entity deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes "of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:

(*a*) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(*b*) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(*c*) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(*d*) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

   (*a*) a place of management;

   (*b*) a branch;

   (*c*) an office;

   (*d*) a factory;

   (*e*) a workshop, and

   (*f*) a mine, an oil or gas well, a quarry or any other place of exploitation of natural resources.

3. The term permanent establishment also encompasses:

   (*a*) any place relating to the exploration of natural resources, provided such activities exists for a period or periods aggregating more than two months within any twelve-month period.

   (*b*) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months, or where such project of activity being incidental to the sale of machinery or equipment continues for a period not exceeding six months and the charges payable for the project or activities exceeds 10 per cent of the sale price of the machinery or equipment free-on-board.

   (*c*) the furnishing of services, including technical, management or consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue for the same project within a Contracting State for a period or periods aggregating more than six months within any twelve-month period.

   (*d*) a fixed place of business used as a sales outlet notwithstanding the fact that such fixed place of business is otherwise maintained for any of the activities mentioned in paragraph 4 of this Article.

4. Notwithstanding the preceding provisions of this Article the term "permanent establishment" shall be deemed not to include:

   (*a*) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

   (*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

   (*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*d*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(*e*) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(*f*) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (*a*) to (*e*), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraph 1 and 2, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those specified in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when conditions are made or imposed between that enterprise and the agent in their commercial or financial relations which differ from those which would have been made between independent persons, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State or Which carries on business in that other State (whether through a permanent establishment or otherwise), shall. not of itself constitute. either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed ill that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment. However, when an enterprise of a Contracting State has a permanent establishment in the other Contracting State, and obtains profits directly through outlets other than the permanent establishment, from sales in that other State of the same goods and merchandise as those sold through that permanent establishment, or from the same business activities as those effected through that permanent establishment, such profits should be attributed to the permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions "expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. However, if such operation in international traffic is carried on by an enterprise of only one of the Contracting States, paragraph 1 will not be applicable, in such a case, the tax charged shall not exceed one percent of the earnings of the enterprise derived from the other Contracting State.

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

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where:

(*a*) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other State has been charged to tax in that other Contracting State and that other State agrees that the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

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

(*b*) 10 per cent of the gross amount of the dividends in all other cases. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment or a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits orincome arising in such other State.

6. Notwithstanding any other provision of this Agreement, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, this other Contracting State may tax any remittances or deemed remittances of profits transferred by the permanent establishment to the company which is a resident of the first-mentioned Contracting State, but the tax so charged shall not exceed 7.5 per cent of the gross amount.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 7.5 percent of the gross amount of interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of the interest and such interest is derived by the Government of the other Contracting State or a political subdivision or a local authority or any agency or instrumentality of that Government or local authority, the Central Bank or other banks wholly owned by the other Contracting State.

4. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interests, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest' is paid was incurred, and such interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

   (*a*) in the case of companies, 7.5 percent of the gross amount of the royalties.

   (*b*) in all other cases, 3.75 percent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films, or films, tapes and other means of image or sound reproduction, and for the use or the right to use of computer software, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of Article 7 or 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Contracting State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50% of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1,2,3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in that other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Article 16; 18 and 19, salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

   (*a*) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

   (*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

   (*c*) the remuneration is not borne by a permanent-establishment or fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportspersons, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income mentioned in this Article shall be exempt from tax in the Contracting State in which the activities of the entertainer or sportsperson are exercised provided that these activities are supported from public funds of that State or of the other Contracting State or the activities are exercised under a cultural agreement or within the framework of a cultural or sports exchange programme approved by both Contracting States.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. (*a*) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

   (*b*) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

      (*i*) is a national of that State; or.

      (*ii*) did not become a resident of that State solely for the purpose of rendering the services.

2. (*a*) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

   (*b*) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of that State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS AND TRAINEES

Payments which a student or business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21

TEACHERS AND RESEARCHERS

1. A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a University or any other similarly recognised educational institution in that State and who, immediately before that visit was a resident of the other Contracting State shall not be taxed by the first-mentioned State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of his first arrival in that State for such purpose.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a person or persons or for the purpose of business profit.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt within the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the income is _paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 14, as the case may be, shall apply.

CHAPTER IV

TAXATION OF CAPITAL

Article 23

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other Contracting State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in -the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

CHAPTER V

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 24

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated following either the provisions of the internal legislation of the Contracting States or the following provisions in accordance with the internal legislation of the Contracting States:

(*a*) Where a resident of a Contracting State derives income or owns elements of capital which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow:

— as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the other Contracting State;

— as a. deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the other Contracting State on the elements of capital;

— the deduction of the underlying corporation tax shall be given in accordance with the internal legislation of each of the Contracting States.

Such deduction shall not,- however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the same elements of capital which may be taxed in the other Contracting State.

(*b*) Where in accordance with any provision of the Agreement income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, that State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

CHAPTER VI

SPECIAL PROVISIONS

Article 25

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status-or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is forseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the law of the requesting State.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

(*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(*b*) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the 'requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

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

Article 28

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a light to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

(*a*) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

(*b*) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

(*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(*b*) to carry out measures which would be contrary to public policy (order public);

(*c*) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may he, available under its laws or administrative practice;

(*d*) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 29

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

CHAPTER VII

FINAL PROVISIONS

Article 30

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other, through diplomatic channels that the internal procedures required by each Contracting State for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force after the period of three months following the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

(*i*) regarding taxes periodically assessed, in respect of taxes on income relating to any taxable year beginning on or after the date on which the Agreement enters into force;

(*ii*) regarding all other cases, the date on which the Agreement enters into force.

Article 31

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of five years from the date of its entry into force. In such event, the Agreement shall cease to have effect regarding taxes periodically assessed, in respect of taxes on:

(*i*) income relating to any taxable year beginning on or after the first day of January in the calendar year next following that in which the notice is given.

(*ii*) regarding all other cases, the first day of January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate in ABUJA on the 23rd day of JUNE, 2009, in the Spanish and English languages, both texts being equally authentic. In case of any divergence of interpretation it shall be resolved in accordance with the English text.

(*Signed*)
HE Dr Mansur Muktar
Minister of Finance
For the Federal Republic of Nigeria

(*Signed*)
HE Mr Miguel Angel Moratinos Cuyaube
Minister of Foreign Affairs and Cooperation
for the Kingdom of Spain

Question that the provisions of the First Schedule stand part of the Bill — Agreed to.

SECOND SCHEDULE

PROTOCOL

At the moment of signing the Agreement between the Kingdom of Spain and Federal Republic of Nigeria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement.

I. **Ad.**

1. The Contracting States declare that their domestic rules and procedures with respect to the abuses of law (including tax agreements) may be applied to the treatment of such abuses. In the case of Spain, abuses of law include situations covered by Article 15 of the General Tax Code (Ley General Tributaria Law 58/2003, 17th December) or any other similar provision in any tax law in force or to be enacted.

2. It is understood that the benefits under the Agreement shall not be granted to a person, which is not the beneficial owner of the items of income derived from the other Contracting States or items of capital situated therein.

3. The Agreement does not prevent Contracting State to apply domestic Controlled Foreign Company rules.

4. The provisions of the Agreement shall not apply if the right giving rise to the income or capital was created or assigned mainly for the purpose of taking advantage of the Agreement and not for bona fide commercial reasons.

II. **Ad.**

When a resident in Nigeria owns capital in Spain, the provisions of the Agreement concerning taxes on capital shall only apply as long as this resident is liable to taxation on that capital in Nigeria.

III. **Ad. (to Articles 10, 11 and 12)**

It is agreed that if any agreement or convention between Nigeria and a member State of the Organisation for Economic Cooperation and Development (OECD) provides that Nigeria shall exempt from tax dividends, interest or royalties (either generally or in respect of specific categories of dividends, interest or royalties) arising in Nigeria, or limit the tax charged in Nigeria on such dividends, interest or royalties (either generally or in respect of .specific categories of dividends, interest or royalties) to a rate lower than that provided for in paragraph 2 of Article 10, paragraph 2 of Article 11 or paragraph 2 of Article 12 of the Agreement, such exemption or lower rate shall automatically apply to dividends, interest or royalties arising in Nigeria and beneficially owned by a resident of Spain under the same conditions as if such exemption or lower rate had been specified in those paragraphs.

IV. **Ad. Limitation of Benefits**

If according to the provisions of Articles 6 to 23, the right of any Contracting State to tax income is limited, and according to the internal tax laws of the other Contracting State such income is regarded as income from foreign sources, or paid abroad, and therefore exempted from tax, the other Contracting State may tax such income as if the Agreement does not exist.

Should the income be remitted to Nigeria (the Contracting State of residence of the payee) within the term of four years since the date it was paid, upon prior petition by the taxpayer the mechanisms to avoid double taxation provided for in the Agreement could be applied.

Should the income be remitted to Spain (the Contracting State of residence of the payee) within the term of six years since the date it was paid, upon prior petition by the taxpayer the mechanisms to avoid double taxation provided for in the Agreement could be applied.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate in ABUJA on the23rd day of JUNE, 2009, in the Spanish and English languages, both texts being equally authentic. In case of any divergence of interpretation it shall be resolved in accordance with the English text.

(Signed)	*(Signed)*
HE Dr Mansur Muktar	**HE Mr Miguel Angel Moratinos Cuyaube**
Minister of Finance	*Minister of Foreign Affairs and Cooperation*
For the Federal Republic of Nigeria	*for the Kingdom of Spain*

Question that the provisions of the Second Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Provide for the Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Kingdom of Spain and for Related Matters, 2017 and approved as follows:

Clauses 1- 3	—	As Recommended
Schedules 1& 2	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

11. **Avoidance of Double Taxation Between the Federal Republic of Nigeria and the Federal Republic of South Korea Bill, 2017 (HB. 445) - Concurrence:**
Motion made: That a Bill for an Act to Provide for Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Republic of South Korea and for Related Matters, 2017 be read the Second Time (*Senate Leader).*

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Provide for Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Republic of South Korea and for Related Matters, 2017(*Concurrence*) (*Senate Leader).*

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO PROVIDE FOR DOMESTICATION AND ENFORCEMENT IN NIGERIA OF THE AVOIDANCE OF DOUBLE TAXATION AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE REPUBLIC OF SOUTH KOREA AND FOR RELATED MATTERS, 2017.

Clause 1: **Domestication and enforcement of the Agreement between the Federal Republic of Nigeria and the Federal Republic of South Korea on the avoidance of Double Taxation and prevention of Fiscal Evasion.**
As from the commencement of this Bill, the provisions of the Agreement between the Federal Republic of Nigeria and the Republic of South Korea on the Avoidance of Double Taxation and Prevention of Fiscal Evasion (in this Bill referred to as Agreement) set out in the First Schedule to this Bill, shall:

(*a*) have the force of law;

(*b*) be given full recognition and effect; and

(*c*) be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Protocol to the avoidance of Double Taxation Agreement between the Federal Republic of Nigeria and the Republic of South Korea.**
The Agreement shall include the provisions of the Protocol set out in the Second Schedule to this Bill for the effective application of the domestic laws in Nigeria and the laws of the Republic of South Korea concerning taxes covered by the Agreement, particularly provisions on the prevention of fiscal evasion with respect to those taxes.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Short Title.**
This Bill may be cited as the Avoidance of Double Taxation Between the Federal Republic Nigeria and the Republic of South Korea Bill, 2017.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

SCHEDULES

First Schedule

Agreement Between the Federal Republic of Nigeria and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains

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

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

Have agreed as follows:

CHAPTER I
SCOPE OF THE AGREEMENT

Article 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. The taxes to which this Agreement shall apply are:

(*a*) in the case of Nigeria:

(*i*) the education tax; and

(*ii*) other taxes on income and capital gains

(*iii*) the personal income tax;

(*iv*) the companies income tax;

(*v*) the petroleum profits tax;

(*vi*) capital gains tax (hereinafter referred to as "Nigerian tax");

(*b*) in the case of Korea:

(*i*) the income tax;

(*ii*) the corporation tax;

(*iii*) the inhabitant tax where charged by reference to the income tax or the corporation tax;

(*iv*) the special tax for rural development; and

(*v*) other taxes on income and capital gains (hereinafter referred to as "Korean tax").

2. This Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

CHAPTER II
DEFINITIONS

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(*a*) the term "Nigeria" means the Federal Republic of Nigeria including any area outside the territorial waters of the Federal Republic of Nigeria which, in accordance with international law, has been or may hereafter be designated under the laws of the Federal Republic of Nigeria concerning the continental shelf as an area within which the rights of the Federal Republic of Nigeria with respect to the sea bed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future;

(*b*) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign lights of the Republic of Korea with respect to the waters, sea-bed and sub-soil, and their natural resources may be exercised now and in the future;

(*c*) the terms "a Contracting State" and "the other Contracting State" mean Nigeria or Korea, as the context requires;

(*d*) the term "person" includes an individual, a company and any other body of persons;

(*e*) the term "company" means anybody corporate or any entity which is treated as a body corporate for tax purposes under the laws of each Contracting State;

(*f*) the term "enterprise" applies to the carrying on of any business;

(*g*) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(*h*) the term "national" in relation to a Contracting State, means:

(*i*) any individual possessing the nationality or the citizenship of a Contracting State: and

(*ii*) any legal person, partnership or association deriving its status as such from the laws in-force-in that Contracting State;

(*i*) the term, "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(*j*) the term "competent authority" means, in the case of Nigeria, the Minister of Finance or his authorized representative, and in the case of Korea, the Minister of Finance and Economy or his authorized representative; and

(*k*) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined herein shall, unless the context otherwise requires, have the meaning that it bas at that time under the law of that State for the purposes of taxes to which this Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile,

residence, place of head or main office, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(*a*) be shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(*b*) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(*c*) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; and

(*d*) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be. deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" fixed place of business through which the business of an enterprise is wholly carried on.

2. The term "permanent establishment" includes especially:

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop; and

(*f*) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or the exploitation of natural resources.

3. The term "permanent establishment" also encompasses:

(*a*) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months;

(*b*) the furnishing of services, including technical, management or consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue for the same project within a Contracting State for a period or periods aggregating more than six months within any twelve-month period; and

(*c*) a fixed place of business used as a sales outlet notwithstanding the fact that such fixed place of business is otherwise maintained for any of the activities mentioned in paragraph 4 of this Article.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not be deemed to include:

(*a*) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*d*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(*e*) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and

(*f*) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (*a*) to (*e*), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person, oilier than an agent of an independent status to whom paragraph 6 applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those specified in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under provisions of that paragraph.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when conditions are made or imposed between that enterprise and the agent in their commercial financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as are attributable to that permanent establishment. However, when an enterprise of a Contracting State has a permanent establishment in the other Contracting State, and obtains profits directly through outlets other than the permanent establishment, from sales in that other State of the same goods and merchandise as those sold through that permanent establishment, or from the same business activities as those effected through that permanent establishment, such profits should be attributed to the permanent establishment.

2. Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

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2. Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is a good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. However, if such operation in international traffic is carried on by an enterprise of only one of the Contracting States, paragraph 1 will not be applicable. In such a case, the tax charged shall not exceed the lesser of:

(*a*) one per cent of such earnings; and

(*b*) the lower amount of Nigerian tax that would have been imposed on such earnings if they had been derived by an enterprise from the operation of ships or aircraft in international traffic in any third State.

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

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where:

(*a*) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State;

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made of imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the taxation authorities of the Contracting States shall, if necessary, consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other" Contracting State may be taxed in that other State.

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

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

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

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

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or 'fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 7.5 per cent of the gross amount of interest. The competent authorities of the Contracting States shall by mutual, agreement settle the mode of application of these limitations.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including a political subdivision or a local authority thereof, the central bank of that other Contracting State or any financial institutions owned by that Government, or by any resident of the other Contracting State with respect to debt-claims, guaranteed or indirectly financed by the Government of that other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other Contracting State or any financial institutions owned by that Government shall be exempt from tax in the first-mentioned Contracting State.

4. For the purpose of paragraph 3, the terms "the Central Bank" and "financial institutions owned by that government" mean:

(*a*) in the case of Nigeria:

(*i*) the Central Bank of Nigeria; and

(*ii*) such other financial institution the capital of which is owned by the Government of the Federal Republic of Nigeria as may be agreed upon from time to time between the Governments of the two Contracting States;

(*b*) in the case of Korea:

(*i*) the Central Bank (the Bank of Korea);

(*ii*) the Korea Export-Import Bank;

(*iii*) the Korea Development Bank;

(*iv*) the Korea Export Insurance Corporation;

(*v*) the Korea Investment Corporation; and (*vi*) such other financial institution the capital of which is owned by the Government of the Republic of Korea as may be agreed upon from time to time between the Governments of the two Contracting States.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness all which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds for whatever reasons the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. However such royalties may also be taxed in the Contracting State from which they are derived and according to the law of that State, but where the beneficial owner of the royalties is subject to tax thereon in the other State, the tax so charged shall not exceed 7.5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as consideration for the use of, or the right to use any copy tight of literary, artistic or scientific work including cinematograph films or films, tapes and other means of image or sound reproduction, for the use of or the right to use computer software, any patent, trademark, design or model, plan, secret formula or process, or for the use of or the tight to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience,

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business ill the other Contracting State ill which the royalties mise through a permanent establishment situated herein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for wbich they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property other than those referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident, of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he bas such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

   (*a*) recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period; and

   (*b*) the remuneration is paid by or on behalf of, an employer who is'not a resident of the other State; and

   (*c*) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State, as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. (*a*) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(*b*) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(*i*) is a national of that State; or

(*ii*) did not become a resident of that State solely for the purpose of rendering the services.

2. (*a*) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(*b*) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of remuneration or pensions paid by:

(*a*) in the case of Nigeria:

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

(*b*) in the case of Korea:

the Bank of Korea, the Korea Export-Import Bank, the Korea Export Insurance Corporation, the Korea Development Bank, the Korea Trade Investment Promotion

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

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

Article 20

STUDENTS AND APPRENTICES

1. An individual who immediately before visiting a Contracting State is or was a resident of the other Contracting State and who is present in the first-mentioned State primarily as a student at a recognized university, college, school or other similar educational institution in the first-mentioned State or as a business or technical apprentice therein, from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on:

(*a*) all remittances from abroad for the purposes of his maintenance, education and training; and

(*b*) any remuneration for personal services rendered in the first-mentioned State with a view to supplementing the resources available to him for such purposes.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other State solely for the purpose of Study, research or training, as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:

(*a*) on the amount of such grant, allowance or award; and

(*b*) on all remittances from abroad for the purposes of his maintenance, education or training.

Article 21

TEACHERS AND RESEARCHERS

1. A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a university or any other similarly recognized educational institution in that State and who, immediately before that visit was a resident of the other Contracting State, shall be exempted from tax by the first-mentioned State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of his first arrival in that State for such purpose. During the said period of two years, the other Contracting State shall also exempt him from tax in respect of such remuneration from the first-mentioned State in respect of the teaching or research.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a specific person or persons.

Article 22

OTHER INCOME

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

CHAPTER IV

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

Subject to the provisions of Nigerian tax law regarding the allowance as a credit against Nigerian tax of tax payable in any country other than Nigeria (which shall not affect the general principle hereof):

(*a*) the Korean tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the laws of Korea and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Korea, shall be allowed as a credit against Nigerian tax payable in respect of that income. The credit shall not, however, exceed that proportion of Nigerian tax which the income from sources within Korea bears to the entire income subject to Nigerian tax;

(*b*) in the case of dividends paid by a company which is a resident of Korea to a company which is a resident of Nigeria and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account (in addition to any Korean tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Korean tax payable by the company paying the dividend in respect of the profits out of which Such dividend is paid.

Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof):

(*a*) the Nigerian tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the laws of Nigeria and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Nigeria, shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Nigeria bears to the entire income subject to Korean tax;

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

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

Article 20

STUDENTS AND APPRENTICES

1. An individual who immediately before visiting a Contracting State is or was a resident of the other Contracting State and who is present in the first-mentioned State primarily as a student at a recognized university, college, school or other similar educational institution in the first-mentioned State or as a business or technical apprentice therein, from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on:

   (*a*) all remittances from abroad for the purposes of his maintenance, education and training; and

   (*b*) any remuneration for personal services rendered in the first-mentioned State with a view to supplementing the resources available to him for such purposes.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other State solely for the purpose of Study, research or training, as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:

   (*a*) on the amount of such grant, allowance or award; and

   (*b*) on all remittances from abroad for the purposes of his maintenance, education or training.

Article 21

TEACHERS AND RESEARCHERS

1. A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a university or any other similarly recognized educational institution in that State and who, immediately before that visit was a resident of the other Contracting State, shall be exempted from tax by the first-mentioned State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of his first arrival in that State for such purpose. During the said period of two years, the other Contracting State shall also exempt him from tax in respect of such remuneration from the first-mentioned State in respect of the teaching or research.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a specific person or persons.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

CHAPTER IV

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of Nigerian tax law regarding the allowance as a credit against Nigerian tax of tax payable in any country other than Nigeria (which shall not affect the general principle hereof):

   (*a*) the Korean tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the laws of Korea and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Korea, shall be allowed as a credit against Nigerian tax payable in respect of that income. The credit shall not, however, exceed that proportion of Nigerian tax which the income from sources within Korea bears to the entire income subject to Nigerian tax;

   (*b*) in the case of dividends paid by a company which is a resident of Korea to a company which is a resident of Nigeria and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account (in addition to any Korean tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Korean tax payable by the company paying the dividend in respect of the profits out of which Such dividend is paid.

2. Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof):

   (*a*) the Nigerian tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the laws of Nigeria and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Nigeria, shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Nigeria bears to the entire income subject to Korean tax;

(*b*) in the case of dividends paid by a company which is a resident of Nigeria to a company which is a resident of Korea and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account (in addition to any Nigerian tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Nigerian tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid.

3. The tax payable in a Contracting State mentioned in subparagraphs (*a*) of paragraph 1 and paragraph 2 of this Article, shall be deemed tö include the tax which would have been payable but for the legal provisions concerning tax reduction, exemption or other tax incentives of the Contracting State for the promotion of economic development. For the purpose of this paragraph, the amount of tax shall be deemed to be 10 per cent of the gross amount of the dividends, interest and royalties in the case of paragraph 2 of Article 10, paragraph 2 of Article 11 and paragraph 2 of Article 12, respectively.

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

4. Notwithstanding paragraph 3 of Article 23, a resident of a Contracting State deriving income from the other Contracting State, being income referred to in that paragraph, shan not be deemed to have paid tax in respect of such income where the competent authority of a Contracting State considers, after consultation with the competent authority of the other Contracting State, that it is inappropriate to grant the benefits of paragraph 3 of Article 23 to the said resident, having regard to:

(*a*) whether any arrangements have been entered into by any person for the purpose of tiling advantage of paragraph 3 of Article 23 for the benefits of that person or any other person; or

(*b*) whether any benefit accrues or may accrue to any person who is neither a resident of a Contracting State-nor a resident of the other Contracting State; or

(*c*) the prevention of fraud, evasion or avoidance of the taxes to which this Agreement applies; or

(*d*) any other matter which the competent authorities consider relevant in the particular circumstances of the case including any submissions from a resident of either Contracting State.

CHAPTER V

SPECIAL PROVISIONS

Article 24

NON-DISCRIM1NATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and deductions for tax purposes which are granted to individuals as residents.

4. Except where the provisions of Article 9, paragraphs 7 and 8 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the taxation authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on . a Contracting State the obligation:

   (*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

   (*b*) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

   (*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

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

Article 27

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensuring its collection, that revenue claim shall," at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

   (*a*) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection or

   (*b*) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensuring its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

   (*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(*b*) to carry out measures which would be contrary to public policy (ordre public);

(*c*) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be available under its laws or administrative practice;

(*d*) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 28

MEMBERS OF DIPLOMATIC MISSIONS & CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic mission or consular posts under the general rules of international law or under the provisions of special agreements.

CHAPTER VI

FINAL PROVISIONS

Article 29

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Agreement have been complied with.

2. This Agreement shall enter into force on the thirtieth day after the date of the letter of the notifications referred to in paragraph 1 of this Article and its provisions shall have effect:

(*a*) in Nigeria:

(*i*) in respect of tax withheld at source on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after the first day of January of the year in which the Agreement enters into force;

(*ii*) in respect of other taxes, in relation to income of the period beginning on or after the first day of January of the year in which the Agreement enters into force;

(*b*) in Korea:

(*i*) in respect of tax withheld at source from amounts paid or credited on or after the first day of January of the year in which the Agreement enters into force;

(*ii*) in respect of other taxes, for the taxable year beginning on or after the first day of January of the year in which the Agreement enters into force.

Article 30

TERMINATION

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

(*a*) in Nigeria:

(*i*) in respect of withholding tax on income and taxes on capital gains derived by a non-resident on or after 1st January in the calendar year immediately following that in which the notice of termination is given; and

(*ii*) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given;

(*b*) in Korea:

(*i*) in respect of tax withheld at source from amounts paid or credited to non-residents on or after the first day of January in the calendar year following that in which the notice is given; and

(*ii*) in respect of other taxes, for the taxable year beginning on or after the first day of January in the calendar year following that in which the notice is given.

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

(*Signed*)	(*Signed*)
Nenadi E. Usman	
for the Government of the Federal Republic of Nigeria	*for the Government of the Republic of South Korea*

Question that the provisions of the First Schedule stand part of the Bill — Agreed to.

SECOND SCHEDULE

PROTOCOL

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

1. With respect to paragraph 3 (*c*) of Article 5, it is understood that losses incurred in connection with a mine, an oil or gas well, a quarry or any place of exploration for or the exploitation of natural resources shall be carried forward and allowed as a set-off against its profits derived from the same trade of business for a period of 4 years from the date when such losses were incurred.

2. In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business, including the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, in the other Contracting State through a permanent establishment situated therein, the profits of the permanent establishment should be determined on the basis of the income earned which is directly attributable to the actual business activity of the permanent establishment.

3. The Agreement shall not apply to any company, trust or other entity that is a resident of a Contracting State and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company, trust or other entity by that State (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit or allowance to the company, trust, or other entity or to any other person) is substantially lower than the amount that would be imposed by that State if all of the shares of the capital stock of the company or all of the interests in the trust or other entity, as the case may be, were beneficially owned by one or more individuals who were residents of that State. However, this paragraph shall not apply if 90 per cent or more of the income on which the lower amount of tax is imposed is derived exclusively from the active conduct of a trade or business, other than an investment business, carried on by it in that Contracting State.

4. The provisions of this Agreement shall not apply if the right giving rise to the income or capital gains was created or assigned mainly for the purpose of taking advantage of this Agreement and not for bona fide commercial reasons. It is also understood that the benefits under this Agreement shall not be granted to a person that is not the beneficial owner of the items of income or capital gains derived from the other Contracting State.

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

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

(Signed)	*(Signed)*
Nenadi E. Usman	
for the Government of the Federal Republic of Nigeria	*for the Government of the Republic of South Korea*

Question that the provisions of the Second Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Provide for Domestication and Enforcement in Nigeria of the Avoidance of Double Taxation Agreement Between the Federal Republic of Nigeria and the Republic of South Korea and for Related Matters, 2017 and approved as follows:

Clauses 1- 3	—	As Recommended
Schedules 1&2	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

12. Chartered Institute of Treasury Management (Establishment, etc.) Bill, 2017 (HB. 100) - Concurrence:

Motion made: That a Bill for an Act to Provide for the Establishment of the Chartered Institute of Treasury Management; for the Promotion, the study and practice of properly managing the Treasury as a safeguard against Fraud, outright Embezzlement, Emasculation, Misappropriation/Misapplication of Resources placed in the custody of Fund Managers; and for Other Matters Connected Therewith, 2017 be read the Second Time *(Senate Leader).*

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Provide for the Establishment of the Chartered Institute of Treasury Management; for the Promotion, the study and practice of properly managing the Treasury as a safeguard against Fraud, outright Embezzlement, Emasculation, Misappropriation/Misapplication of Resources placed in the custody of Fund Managers; and for Other Matters Connected Therewith, 2017*(Concurrence)* *(Senate Leader).*

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CHARTERED INSTITUTE OF TREASURY MANAGEMENT; FOR THE PROMOTION, THE STUDY AND PRACTICE OF PROPERLY MANAGING THE TREASURY AS A SAFEGUARD AGAINST FRAUD, OUTRIGHT EMBEZZLEMENT, EMASCULATION, MISAPPROPRIATION/MISAPPLICATION OF RESOURCES PLACED IN THE CUSTODY OF FUND MANAGERS; AND FOR OTHER MATTERS CONNECTED THEREWITH, 2017.

PART I — ESTABLISHMENT OF THE CHARTERED INSTITUTE OF TREASURY MANAGEMENT

Clause 1: **Establishment of the Chartered Institute of Treasury Management.**

(1) There is hereby established a body to be known and referred to as the Chartered Institute of Treasury Management (in this Bill referred to as "the Institute") which —

(*a*) shall be a body corporate with —

(*i*) perpetual succession;

(*ii*) a common seal which shall be kept in such custody as the Council may direct;

(*b*) may sue and be sued in its corporate name; and

(*c*) may acquire, hold and dispose of any property, moveable or immovable.

(2) The Institute shall have the general duty of —

(*a*) determining the level of knowledge and skill to be attained by persons seeking to become members of the profession and reviewing such standards from time to time as may be required;

(*b*) establishing and maintaining of register of members and the publication of same in line with the provisions of this Bill;

(*c*) regulating the practice of the treasury management in its ramification; and

(*d*) performing all other functions conferred on the Council pursuant to the provisions of this Bill.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Membership of the Institute.**

(1) Subject to the provisions of this Bill, a person admitted to membership of the Institute shall be registered member of the profession in the category of —

(*a*) fellows;

(*b*) full members;

(*c*) associate members;

(*d*) graduate members;

(*e*) student members; or

(*f*) corporate/Institutional members.

(2) Members of the Institute shall from time to time be required to attend Mandatory Continuous Professional Training Programme (MCPTP) as specified by Council for reorientation and development processes.

(3) Provisions of subsection (2) of this section shall apply to members in the category of —

(*a*) fellows;

(*b*) full members;

(*c*) associate members;

(*d*) graduate members; and

(*e*) student members.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Membership Privileges.**

(1) A member of the Institute shall be entitled to receive, from the Council, a certificate in such form as the Council may approve for that purpose.

(2) A member shall be entitled to use such letters after his name as may be authorized by the Council from time to time as follows —

(*a*) if registered into the category of membership of Fellow shall use the initials "FITM";

(*b*) if registered into the category of membership of Full Member shall be entitled to use the initials "MITM"; and

(*c*) if registered into the category of membership of Associate Member shall be entitled to use the initials "AMITM".

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

Clause 4: **Principal officer of the Institute and their responsibilities.**

(1) The principal officers of the Institute shall be the —

(*a*) President;

(*b*) Deputy President; and

(*c*) National Treasurer.

(2) The principal officers shall —

(*a*) be members of the Institute;

(*b*) be elected at the Annual General Meeting of the Institute; and

(*c*) hold office each for a term of two years and may be eligible for re-election for one further term and no more.

(3) The President shall be Chairman at the meeting of the Institute, however that, in the event of the death, incapacitation or inability for any reason of the President, the Deputy President shall act in his place for the unexpired portion of the term of office or as the case may require, and references in this to the President shall be construed accordingly.

(4) The President, Deputy President, and the National Treasurer shall respectively be Chairman, Deputy Chairman and the Treasurer of Council.

(5) If the President, the Deputy President, or the National Treasurer ceases to be a member of the Institute he shall ipso facto cease to hold any office designated under this section.

Committee's Recommendation:
That the provision in Clause 4 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 4 *do stand part of the Bill, put and agreed to.*

Clause 5: **Establishment of the Governing Council.**

(1) There is hereby established for the Institute a Governing Council (in this Bill referred to as "the Council") which shall be charged with the responsibility for the administration and general management of the Institute.

(2) The Council shall consist of —

(*a*) the President of the Institute who shall be the Chairman;

(*b*) the Deputy President of the Institute who shall be the Vice-Chairman;

(*c*) the Treasurer;

(*d*) the two Vice Presidents;

(*e*) one person each, representing the —

(*i*) Federal Ministry of Education,

(*ii*) Federal Ministry of Employment, Labour and Productivity, and

(*iii*) Federal Ministry of Finance;

(*f*) six zonal chairmen elected every two years from the six geopolitical zones;

(*g*) twelve members of the Institute elected at the annual general meeting (AGM);

(*h*) seven corporate members nominated by Council;

(*i*) three educational and training Institutions nominated by Council;

(*j*) Chairman Board of Fellows; and

(*k*) immediate past Presidents of the Institute/Chairman of Council.

Committee's Recommendation:
That the provision in Clause 5 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill, put and agreed to.

Clause 6: **Board of Fellows.**

(1) There shall be appointed annually by the Council a Board of Fellows, to coordinate the activities of fellows of the Institute, and to recommend to the Council on yearly basis admission of members to the membership category of Fellow.

(2) The Board of Fellows shall consist of persons who have been duly elected as Fellows of the Institute.

Committee's Recommendation:
That the provision in Clause 6 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 6 *do stand part of the Bill, put and agreed to.*

PART II — FINANCIAL PROVISIONS

Clause 7: **Fund of the Institute.**

(1) The Council shall establish and maintain a fund, the management and control of which shall be in the hands of the Council and into which shall be paid:

(*a*) all fees and other monies payable to the Council in pursuance of this Bill; and

(*b*) all revenue from other sources both locally and internationally.

(2) There shall be paid out of the fund of the Institute —

(*a*) all expenditure incurred by the Council in the discharge of its function under the Bill;

(*b*) the remuneration and allowances of the Registrar and other staff of the Institute; and

(*c*) such reasonable traveling and subsistence allowances of members of the Council in respect of the time spent on the duties of the Council as the Council may determine.

(3) The Council may invest money in fund or any security created or issued by, on behalf of the Government of the Federation or in any other securities in Nigeria approved by Council.

(4) The Council may, from time to time, borrow money for the purpose of the Institute and any interest payable on money so borrowed shall be paid out of the fund.

(5) The Council shall keep proper account on behalf of the Institute in respect of each year and proper records in relation to those accounts to those accounts and the Council shall cause the accounts to be audited by an auditor and when audited, the Audit Report shall be submitted to the members of the Institute for approval by them at a meeting of the Institute.

(6) The Council shall cause the account to be audited by an auditor appointed from the list and in accordance with the guidelines supplied by the Auditor General of the Federation.

(7) The auditor so appointed for this purpose shall not be a member of the Council.

Committee's Recommendation:
That the provision in Clause 7 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 7 *do stand part of the Bill, put and agreed to.*

PART III — REGISTRAR AND REGISTER

Clause 8: Appointment of Registrar.

(1) The Council shall appoint a fit and proper as the Registrar of the Institute for the purpose of this Bill.

(2) The Registrar must possess the following —

(*a*) he/she must be a financial member of the Institute;

(*b*) a fellow of the Institute.

(3) The registrar shall be the chief executive of the Institute and secretary to the Council.

(4) It shall be the duty of the Registrar to prepare and maintain, in accordance with the rule of the council, a register of names, addresses, approved qualifications and other relevant requirements as may be specified from time to time for all persons who might enroll as Fellows, Full Members, Associate Members, and Graduate Members of the Institute.

(5) The Council shall make rules as to the form and keeping of the register and in particular for —

(*a*) the application for enrolment;

(*b*) determining the qualification which is in relation and relevant to the profession and as accepted for the purpose of this Bill; and

(*c*) specifying the fees and subscription to be paid to the Institute in respect of the entry of names into the registers and authorizing the Registrar to refuse to enter any name whatsoever until a specified fee is paid.

Committee's Recommendation:
That the provision in Clause 8 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 8 *do stand part of the Bill, put and agreed to.*

Clause 9: Publication of Register and list of correction.

(1) It shall be the duty of the Registrar —

(*a*) to correct in accordance with the Council's directive, any entry in the register which the Council directs him to correct as being in the Council's opinion an entry which is incorrectly made;

(*b*) to make from time to time any alterations in the registered particulars of registered members;

(*c*) to remove from the register the name of a registered member who is deceased;

(*d*) to record the name of members of the Institute who are in default for more than four years in the payment of annual subscription and to take such actions as may be deemed fit under this Bill.

(2) It shall be the duty of the Registrar —

(*a*) to cause the register to be printed, published and put on sale to members of the public not later than two months from the commencement of this Bill;

(*b*) in each year after in which the register is first published under paragraph (*a*) of this subsection, to cause to be printed, published and put on sale as aforementioned either a corrected edition of the register or a list of alterations made to the register since it was last printed; and

(*c*) to cause a print of each edition of the register and of its list of corrections to be deposited at the principal office of the Institute.

(*d*) a document purporting to be in print of an edition of the register published under this section by authority of the Registrar, or document purporting to be print of an edition so published, shall without prejudice to any other mode of proof be admissible in any proceedings as evidence that any person specified in the documents reads together, as being registered was so registered at the date of the edition or of the list of corrections as the case may be, and that any person not so specified was not so registered.

(3) Where a person is, in any proceedings, shown to have been or not to have been registered at a particular date, he shall, unless the contrary is proved, be taken for the purpose of those proceedings as having at all material times thereafter continue to be, or not to be, so registered.

Committee's Recommendation:
That the provision in Clause 9 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 9 do stand part of the Bill, put and agreed to.

Clause 10: Qualification for Membership.

(1) Subject to the provision of this Bill, an individual shall be eligible to be registered as a treasury manager if —

(*a*) he passes the qualifying examination accepted by Council;

(*b*) he complete the practical training prescribed by the Institute under this Bill;

(*c*) he holds any other qualification accepted by the Institute for the time being; or

(*d*) he qualifies for enrolment as member in any of the categories specified for the purpose of this Bill.

(2) An applicant for registration shall, in addition to evidence of qualification, satisfy the Council that —

(*a*) he is of good character;

(*b*) has attained the age of 21 years; and (*c*) has not been convicted by any court of law in Nigeria or elsewhere for an offence involving fraud or dishonesty.

Committee's Recommendation:
That the provision in Clause 10 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 10 *do stand part of the Bill, put and agreed to.*

Clause 11: Approval of qualification for Membership.

(1) The Council shall, from time to time, publish particulars of qualification accepted by the Council for registration.

(2) The Council shall, approve any institution for the purpose of this Bill, and may for such purpose approve —

(*a*) any course of training at an approved institution which is intended for persons seeking to become or are already treasury management practitioners and which the Council considers as designed to confer on persons competent, sufficient knowledge and skills for admission into the Institute; or

(*b*) any qualification which, as a result or an examination taken in conjunction with a course of training approved by the Council under this section, is granted to candidates reaching a standard at the examination indicating in the opinion of the members of the Council that the candidates have sufficient knowledge and skill to practice the profession.

(3) The Council may, if it thinks fit, withdraw any approval given under this section in respect of any course, qualification or institution, but before withdrawing such an approval the Council shall —

(*a*) give notice that it proposes to withdraw such approval to each person in Nigeria appearing to the Council to be a person by whom the course is conducted or the qualification is granted or the Institute is controlled, as the case may be;

(*b*) given each such person an opportunity of making to the Council representation with regard to the proposal; and

(*c*) take into consideration any representations made in respect of the proposal in pursuance of the provisions of paragraph (*b*) of this subsection.

(4) Any period during which the approval of the Council under this section for a course, qualification or institution is withdrawn, the course, qualification or institution shall not be treated as approved under this section, but the withdrawal of such an approval shall not prejudice the registration or eligibility for registration of any person who by virtue of the approval was registered or eligible for registration immediately before the approval was withdrawn.

(5) The given or withdrawal of an approval under this section shall have effect from such date, either before or after the execution of the instrument signifying the giving or withdrawal of the approval, as the Council may specify in that instrument, and the Council shall —

(*a*) publish as soon as possible a copy of every such instrument in the print media; and

(*b*) not later than seven (7) days before its publication as aforesaid, send a copy of the instrument to the Minister.

(6) It shall be the duty of the members of the Council to keep themselves informed of the nature of —

(*a*) the instrument given at approved institutions to persons attending approved course of training; and

(*b*) the examination as a result of which approved qualification are granted, and for the purpose of performing that duty the Council may appoint, either from among its own members or otherwise, persons to visit approved institutions, or to attend such examinations.

Committee's Recommendation:
That the provision in Clause 11 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 11 *do stand part of the Bill, put and agreed to.*

PART IV — MISCELLANEOUS PROVISIONS

Clause 12: **Appointment of Visitation Panel.**

(1) The Council shall appoint a visitation panel which shall, from time to time, report to the Council on —

(*a*) the sufficiency of the instruction given to persons attending approved course of training at the institution visited;

(*b*) the sufficiency of the examinations attended; and

(*c*) any other matters relating to the institutions or examinations on which the Council may, either generally or in a particular case, request the visitation panel to report, provided that the visitation panel shall not interfere with the giving of any instruction or the holding of any examination.

(2) On receiving a report made in pursuance of this section, the Council may, if it thinks fit, and shall if so required by the Institute, send a copy of the report to the person appearing to the Council to be in charge of the Institute or responsible for the examination to which the report relate requesting that person to make observations on the report to the Council within such a period as may be specified in the request, not being less than one (1) month beginning with the date of request.

Committee's Recommendation:
That the provision in Clause 12 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 12 *do stand part of the Bill, put and agreed to.*

Clause 13: Establishment of a disciplinary tribunal.

(1) There is hereby established a tribunal to be known as Institute of Treasury Management Disciplinary Tribunal (in this Bill hereafter referred to as "the Tribunal") which shall be charged with the duty of considering and determining any case referred to it by the Panel established by the provision of this Bill.

(2) The Tribunal shall consist of the Chairman of the Council and six (6) other members appointed by the Council one of which may be a legal practitioner with not less than 10 years post call experience.

(3) There is hereby established a panel to be known as Institute of Treasury Management Investigating Panel (in this Bill referred to as "the Panel"), which shall be charged with the duty of considering and determining any case referred to it by the Tribunal established under subsection (1) of this section.

(4) The Panel shall be appointed by the Council and shall consist of two (2) members of the Council or the three (3) registered members who are not members of Council.

(5) The provisions of the Third Schedule to this Bill shall, so far as applicable to the Tribunal and Panel respectively, have effect with respect to those bodies.

Committee's Recommendation:
That the provision in Clause 13 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 13 *do stand part of the Bill, put and agreed to.*

Clause 14: Penalties for unprofessional conduct, etc.

(1) Where —

(*a*) member is adjudged by the Tribunal to be guilty of infamous conduct in any professional respect; or

(*b*) a member is convicted, by any court in Nigeria or elsewhere having powers to award imprisonment for an offence (whether or not punishable with imprisonment) which in the opinion of the Tribunal is incompatible with the status of a professional treasury consultant; or

(*c*) the Tribunal is satisfied that the names of any person has been fraudulently registered,

the Tribunal may, if it deems fit, give a direction reprimanding that person or ordering the Registrar to strike his name off the relevant part of the register.

(2) The Tribunal may if it deems fit, defer its decision as to the giving of a direction under subsection (1) of this section until a subsequent meeting of the tribunal, but —

(*i*) no decision shall be defer under this provision for a period exceeding one year;

(*ii*) no person shall be a member of the Tribunal for the purpose of reaching a verdict on a deferred or further deferred decision unless he was present as a member of the Tribunal when the decision was deferred.

(3) A person shall not be treated as a convict as therein mentioned unless the conviction stand at a point where no appeal or further appeal is pending or may (without extension of time) be brought in connection with the conviction.

(4) When the Tribunal gives a directive for the purpose of effecting penalties for unprofessional conduct, the Tribunal shall cause notice of the directive to be served on the person to whom it relates.

(5) The person to whom such a direction relates, at any time within twenty-eight days from the date of service on him of notice of the direction, may appeal against the direction to the Federal High Court and the Tribunal may appear as respondent to the appeal and, for the purpose of enabling direction to be given as to the costs of the appeal and proceeding before the Federal High Court, the Tribunal shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.

(6) A directive of the Tribunal shall take effect —

(*a*) where no appeal under this section is brought against the directive within the time limited for such an appeal, on the expiration of the time;

(*b*) where such an appeal is brought and is withdrawn or struck out for want of prosecution, or the withdrawal, on striking out of the appeal; or

(*c*) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed.

(7) A person whose name is removed from the register in pursuance of a directive of the Tribunal under this section shall not be entitled to be registered again except in pursuance of a directive in that behalf giving by the Tribunal on the application of that person and a directive under this section for the removal of a person's name from the register may prohibit an application under this subsection by that person until the expiration of that period from the date of the direction (and where he has duly made such an application, from the date of his last application) as may be specified in that direction.

Committee's Recommendation:
That the provision in Clause 14 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 14 *do stand part of the Bill, put and agreed to.*

Clause 15: When a person deemed to practice as a professional treasury management practitioner.

(1) At the commencement of this Bill, any person not a member of the Institute before the passing of this Bill who, for this Bill, would have been qualified to apply for and obtain membership of the profession may within the

period of three months beginning with the date of the commencement of this Bill apply for membership of the Institute in such a manner as may be prescribed by rules made by the Council and if approved, he shall be enrolled or registered, as the case may be according to his qualification.

(2) A person shall be deemed as a professional treasury management practitioner if, for consideration of remuneration to be received whether by himself or in partnership with any other person —

(*a*) he engages himself in the practice of treasury management or holds himself out to the public as a professional treasury management consultant; or

(*b*) he renders professional service or assistance in or about matters of principle or detail relating to treasury management or data;

(*c*) renders any other service that may by regulations made by the Council be designated as service constituting practice as a professional treasury management practitioner/consultant.

Committee's Recommendation:
That the provision in Clause 15 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 15 *do stand part of the Bill, put and agreed to.*

Clause 16: Rules of practice.

(1) The Council may make rules for —

(*a*) the training of suitable persons in treasury management;

(*b*) the licensing of people employed in the treasury;

(*c*) the fees to be paid by treasury practitioner/consultants; and

(*d*) the restriction of right of practice where conditions are not met.

(2) The Council may also make rules prescribing the amount and due date for payment for membership annual subscription and for such purpose different amount may be prescribe by the rules according to the membership category of the Institute.

(3) Rules when made shall, if the chairman of the Council so direct, be published in the Print media.

Committee's Recommendation:
That the provision in Clause 16 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 16 *do stand part of the Bill, put and agreed to.*

Clause 17: Honourary Membership.

The Council shall be free to award honorary membership of the Institute to persons whom it considers worthy of such honour, on terms and condition prescribed by the Council and approved by the Institute in its general meeting.

Committee's Recommendation:
That the provision in Clause 17 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 17 *do stand part of the Bill, put and agreed to.*

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treasury management methods and allied subjects Council may from time to time consider necessary;

on and sale of materials, books and journal arising onsultancy activities.

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ler this Bill shall be subject to confirmation by the ral meeting or at a special meeting of the Institute if then annulled, shall cease to have effect on the ent, but without prejudice to anything done in ce of any such rules.

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of this Bill —

ıeld immediately before by or on behalf of the stitute before this Bill, by virtue of this section shall e Institute; and

ection (2) of this section, any act, or matter made ncorporated Institute before this Bill shall continue

Bill shall have effect with respect to matters arising his section to the Institute of the property of the efore this Bill, and with respect to the other matters ıd Schedule to this Bill.

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period of three months beginning with the date of the commencement of this Bill apply for membership of the Institute in such a manner as may be prescribed by rules made by the Council and if approved, he shall be enrolled or registered, as the case may be according to his qualification.

(2) A person shall be deemed as a professional treasury management practitioner if, for consideration of remuneration to be received whether by himself or in partnership with any other person —

(*a*) he engages himself in the practice of treasury management or holds himself out to the public as a professional treasury management consultant; or

(*b*) he renders professional service or assistance in or about matters of principle or detail relating to treasury management or data;

(*c*) renders any other service that may by regulations made by the Council be designated as service constituting practice as a professional treasury management practitioner/consultant.

Committee's Recommendation:
That the provision in Clause 15 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 15 *do stand part of the Bill, put and agreed to.*

Clause 16: Rules of practice.

(1) The Council may make rules for —

(*a*) the training of suitable persons in treasury management;

(*b*) the licensing of people employed in the treasury;

(*c*) the fees to be paid by treasury practitioner/consultants; and

(*d*) the restriction of right of practice where conditions are not met.

(2) The Council may also make rules prescribing the amount and due date for payment for membership annual subscription and for such purpose different amount may be prescribe by the rules according to the membership category of the Institute.

(3) Rules when made shall, if the chairman of the Council so direct, be published in the Print media.

Committee's Recommendation:
That the provision in Clause 16 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 16 *do stand part of the Bill, put and agreed to.*

Clause 17: Honourary Membership.

The Council shall be free to award honorary membership of the Institute to persons whom it considers worthy of such honour, on terms and condition prescribed by the Council and approved by the Institute in its general meeting.

Committee's Recommendation:
That the provision in Clause 17 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 17 *do stand part of the Bill, put and agreed to.*

Clause 18: **Library facilities.**
The Institute shall—

(*a*) provide and maintain a library comprising books and publications for the advancement of knowledge in treasury management and such books and publication as the Council may include things necessary for the purpose;

(*b*) encourage research into treasury management methods and allied subjects to such extent that the Council may from time to time consider necessary; and

(*c*) encourage the production and sale of materials, books and journal arising from its research and consultancy activities.

Committee's Recommendation:
That the provision in Clause 18 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 18 *do stand part of the Bill, put and agreed to.*

Clause 19: **Rules and Regulations.**
Rules and regulations made under this Bill shall be subject to confirmation by the Institute at its next annual general meeting or at a special meeting of the Institute convened for the purpose, and if then annulled, shall cease to have effect on the day after the date of annulment, but without prejudice to anything done in pursuance or intended pursuance of any such rules.

Committee's Recommendation:
That the provision in Clause 19 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 19 *do stand part of the Bill, put and agreed to.*

Clause 20: **Transfer of property.**
(1) On the commencement of this Bill —

(*a*) all properties held immediately before by or on behalf of the Incorporated Institute before this Bill, by virtue of this section shall be vested on the Institute; and

(*b*) subject to subsection (2) of this section, any act, or matter made or done by the Incorporated Institute before this Bill shall continue to have effect.

(2) The provisions of this Bill shall have effect with respect to matters arising from the transfer by this section to the Institute of the property of the Incorporated Institute before this Bill, and with respect to the other matters mentioned in the Second Schedule to this Bill.

Committee's Recommendation:
That the provision in Clause 20 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 20 *do stand part of the Bill, put and agreed to.*

Clause 21: **Interpretation.**
In this Bill, unless the context otherwise requires —
"Board" means the Board of Fellows.

Question: That the word " Board" defined in the Interpretation to this Act, put and agreed to.

"Council" means the Council established as the governing body of the Institute.

Question: That the word " Council" defined in the Interpretation to this Act, put and agreed to.

"Fees" includes annual subscription.

Question: That the word " Fees" defined in the Interpretation to this Act, put and agreed to.

"Minister" the Minister charged with the responsibility for education.

Question: That the word " Minister" defined in the Interpretation to this Act, put and agreed to.

"President" and "Deputy President" respectively mean the office holders as specified by this Bill.

Question: That the words " President"and"Deputy President" defined in the Interpretation to this Act, put and agreed to.

"Register" means the register maintained in pursuance of this Bill; and.

Question: That the word " Register" defined in the Interpretation to this Act, put and agreed to.

"Tribunal" as assigned to, by the provision of this Bill.

Question: That the word " Tribunal" defined in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:
That the provision in Clause 21 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 21 *do stand part of the Bill, put and agreed to.*

Clause 22: Citation.
This Bill may be cited as the Chartered Institute of Treasury Management (Establishment, etc.) Bill, 2017.

Committee's Recommendation:
That the provision in Clause 22 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 22 *do stand part of the Bill, put and agreed to.*

SCHEDULES

FIRST SCHEDULE

Section 5 (3)

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Qualification and Tenure of Office of Principal Officers of Council

1. (1) Subject to the provisions of this paragraph, every elected principal officer of Council shall hold office for two year in the first instance and shall be eligible for re-election for a further term of two years.

(2) Any officer of the Institute who ceases to be a member thereof shall, if he is also a member of Council, cease to hold office on the Council.

(3) Any elected member may by notice in writing under his hand addressed to the President resign his office, and any appointed member may, likewise resign his office.

(4) A person who retires from or otherwise ceases to be an elected member of the Council shall be eligible again to become a member of the Council, and any appointed member may be reappointed.

(5) Election to the Council shall be held in such manner as may be prescribed by rules made by the Council and until so prescribed they shall be decided by a secret ballot.

(6) If for any reason there is a vacation of office by a member and such member was elected, the Council may, if the time between the unexpired portion of the term of office and the next general meeting of the Institute appears to warrant the filling of the vacancy, co-opt some fit persons for such time as aforesaid.

(7) The election of members of Council shall be effected in the manner herein prescribed —

(*a*) not less than eight weeks before each Annual General Meeting of the Institute, the Council may nominate for election to the Council, such candidates (if any) as it shall deem fit, who are willing to serve if elected, provided that the number of candidates so nominated shall not exceed 50 per cent of those retiring;

(*b*) not less than seven weeks before each Annual General Meeting of the Institute, the Secretariat shall issue to all professional members a notice which shall —

(*i*) specify the names of elected Council members whose terms of office will expire at the close of the next Annual General Meeting;

(*ii*) specify any other vacancies in the membership of the Council which may be filled by election;

(*iii*) specify the names of any candidates nominated by Council for election to the Council;

(*iv*) invite nominations of other candidates on the prescribed nomination form;

(*v*) contain such other particulars as may be prescribed by the Council;

(*c*) Candidates for election to Council, other than candidates nominated in the following manner —

(*i*) not less than five weeks before each Annual General Meeting, nomination forms including details of all particulars required to be given) shall be duly completed in the manner set out below and shall be sent to the Secretariat of the Institute;

(ii) each nomination form shall relate to one candidate only and shall contain the following particulars relating to such candidates —

(aa) his class and grade of membership in the Institute;

(bb) his full-time managerial or other appointment (if any) or, if retired, such appointment immediately before retirement and his date of retirement; and

(cc) such other particulars as shall be prescribed by the Council;

(d) each candidate shall be sponsored by two persons who shall be members of the Institute entitled to vote and each nomination form shall contain, in addition to the particulars referred to in paragraph;

(e) above, a statement of the names, address, class and grade of membership of each of the sponsors; and

(f) vote shall be taken by secret ballot at the Annual General Meeting

Powers of Council

2. (1) The Council shall —

(a) have powers to engage in legal activities, which in its opinion is calculated to facilitate the carrying on of the activities of the Institute;

(b) exercise such powers of the Institute and do on behalf of the Institute such acts as may be exercise and done by the Institute;

(c) exercise any power granted by the Institute in General Meeting, and subject to such Bye-laws or provisions, as may be prescribed by the Institute in General Meeting, but no Bye-law made by the Institute in General Meeting shall invalidate any prior act of the Council which would have been valid if such Bye-law had not been made;

(d) may exercise powers on behalf of the Institute to borrow money, to mortgage or charge its undertaking and property or any part thereof and to issue debentures, debenture stocks, and other securities whether outright or as security for any debt, liability or obligation of the Institute;

(e) set up every year as soon as practicable after the Annual General Meeting, an Executive Committee of Council, which shall meet regularly and carry out the normal business of Council between the regular meetings of Council; and

(f) may at any time establish a branch of the Institute in any locality within the country.

Power to make, after or repeal Bye-law of the Institute

(2) The Council shall have power from time to time to make, alter and repeal any Byelaw as they may deem necessary or expedient or convenient for the proper conduct and management of the Institute. The Council shall adopt such means as they shall deem sufficient to bring to the notice of the Institute and all its members Bye-laws, alterations and repeals made under the powers conferred by those

present. Provided always that no Bye-laws shall be inconsistent with or shall affect or repeal anything contained in this Bill or constitute such an amendment of or addition to these presents as could only lawfully be made by special resolution.

Proceedings of the Council

3. (1) Subject to the provisions of this Bill, the Council may in the name of the Institute make standing orders regulating the proceedings of the Institute or of the Council, and in the exercise of its powers under this Bill may set up committees in the general interest of the Institute, and make standing orders therefore.

(2) Standing orders shall provide for decisions to be taken by a majority of the members, and, in the event of equality of votes, for the president or the chairman, as the case may be, to have a second or casting vote.

(3) Standing orders made for a committee shall provide that the committee is to report back to the Council on any matter not within its competence to decide.

(4) The quorum of the Council shall be seven and the Council shall fix the quorum of a committee.

Meeting of the Institute

(*a*) *Annual General Meetings*

4. (1) A General Meeting of the Institute shall be held once in every calendar year as its Annual General Meeting, at such time and place as may be determined by the Council, provided that every Annual General Meeting after the first Annual General meeting shall be held not more than fifteen months after the holding of the last preceding such meeting.

(*b*) *Extra Ordinary General Meeting*

(2) (*a*) All General Meetings of the Institute, which are not Annual General Meetings, shall be called Extra Ordinary General Meetings.

(*b*) The Council may call an Extraordinary General Meeting whenever it thinks fit and an Extraordinary General Meeting shall also be convened on requisition as hereafter provided.

Quorum at General Meeting

(3) No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business, save as herein otherwise provided the quorum shall be thirty-five members personally present.

Adjournment of Meetings

(4) If within an hour from the time appointed for the holding of a General Meeting a quorum is not present, the meeting, if convened on the requisition of members shall be dissolved and in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or at such other place as the Chairman of the meeting shall appoint, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the members present shall be a quorum.

Special Business Transactions

5. All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Annual General Meeting shall also be deemed special with the execution of the consideration of the accounts and balance sheet, and the report of the Council and of Auditors and the fixing of the remuneration of the Auditors and the election of members of the Council.

Notices — Mode of Service

6. (1) A notice may be served by the Institute upon any member of the Council, its Committees and the Institute either personally or by sending it through the post in prepaid letter addressed to such member at his address as appearing in the professional Register of Members or other records of member not being Professional Members.

(2) Any notice if served by post shall be deemed to have been served on the day following that on which the letter containing the same is put into the post and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put the post office as a prepaid.

Annual or Extra-Ordinary Meetings

7. An Annual or Special Meeting of the Institute shall be called by twenty-one days notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day, and the hour of the meeting, and in case of business other than ordinary annual business of the Institute, the general nature of business. In the case of an Annual Meeting, the Secretary shall also send to each Member with such notice a copy of the Annual Report of the Council, a copy of the Accounts of the Institute with the Auditors' Report thereon, and particular of all motions to be brought before the meeting.

When Members May Present Special Motions at Annual General Meetings

8. A member wishing to bring before the Annual General Meeting any motion not relating to the ordinary annual meeting of the Institute may do so provided —

(*a*) that notice in writing of the proposed motion be sent or given to the Secretary and be received by him not later than forty-five days before the date of the Annual General Meetings;

(*b*) that no less than ten members entitled to vote at the Annual General Meeting shall have sent or given notice in writing to the Secretary to be received by him not later than thirty days before the date of the Annual General Meeting expressing their desire that the proposed motion should be brought before the Annual General Meeting and that the proposed motion relates to matters affecting the Institute.

Voting at General Meetings

9. (*a*) Save as provided in this Schedule regarding voting to elect Members to fill vacancies on the Council, a resolution put to the vote at any Annual General Meeting or Special Meeting of the Institute, shall be decided on a show of hand unless (before or on the declaration of the show of hands) a poll is demanded by at least ten per cent of those present provided that the matter arrived at is not less than five.

(*b*) No amendment shall be permitted to any resolution to alter, amend or add to the Act or the rules and Byelaws of the Institute except with the consent of the Chairman of the meeting (whose decision shall be final) the amendment is one of form only and not of substance.

(*c*) If a poll is duly demanded or is required to be taken, it shall be taken in accordance with the relevant Byelaws and the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.

(*d*) Save as provided in this Schedule regarding voting to elect members by ballot to fill vacancies on the Council, in the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is required to be taken shall be entitled to a second or casting vote.

(*e*) A poll demanded on the election of a Chairman or on any question of adjournment shall be taken forthwith. A poll demanded or required to be taken of any other question shall be taken at such time and place as the Chairman of the meeting directs and any business other than upon which a poll has been demanded or is required may be proceeded with pending the taking of the poll.

(*f*) On a show of hands or a poll every member present in person shall (save as provided in the case of electing members to fill vacancies of the Council) have one vote.

Voting Rights of Corporate Members

10. Each Corporate Member's voting power at any meeting of the Institute shall be vested in a single person entitled as a "Voting Representative", who, if he is a Professional Member of the Institute in his own right, may exercise his rights to vote as an individual member in addition to voting as a representative.

Meeting of the Council

11. (1) Subject to the provisions of any standing orders and or bye-laws of the Council, the Council shall meet whenever it is summoned by the Chairman; and if the chairman is required to do so by notice in writing given to him by not less than five other members, he shall summon a meeting of the Council to be held within seven days from the date on which the notice is given.

(2) At any meeting of the Council, the chairman or in his absence the vice chairman shall preside; but if both are absent, the members present at the meeting shall appoint one of their member to preside at that meeting.

(3) Where the Council desires to obtain advice from any person on a particular matter, the council may co-opt him as a member for such period as the Council thinks fit; but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

(4) Notwithstanding anything in the foregoing provision of this paragraph, the first meeting of the Council shall be summoned by the Minister of Education, who may give such direction as he thinks fit as to the procedure which shall be followed at the meeting.

Committees

12. (1) The Council may appoint one or more committees to carry out on behalf of the Institute or of the Council, such functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Council, and a person other than a member of the Council shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.

Miscellaneous

13. (1) The fixing of the seal of the Institute shall be authenticated by the signature of the President or of some other member of the Council authorized generally or specially by the Institute to act for that purpose.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Institute or of the Council as the case may require, by any person generally or specially authorized to act for that purpose by the Council.

(3) Any document purporting to be duly executed under the seal of the Institute shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

(4) The validity of any proceedings of the Institute or the Council or of a committee of the Council shall not be affected by any vacancy in membership, or by any defect in the appointment of member of the Institute or of the Council or of a person to serve on the committee or by reason that a person not entitled to do so took part in the proceedings.

(5) Any member of the Institute or the Council, and any person holding office on a committee of the Council, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council on behalf of the Institute, or on behalf of the Council or a committee thereof, shall forthwith disclose his interest to the President or to the Council in question relating to the contract or arrangement.

(6) A person shall not by reason only if his membership of the Institute be required to disclose any interest relating solely to the audit of the accounts of the Institute.

Question that the Provisions of the First Schedule stand part of the Bill — Agreed to.

SECOND SCHEDULE

Section 20 (2)

TRANSITIONAL PROVISIONS AS TO PROPERTY, ETC.

Transfer of property

1. (1) Every agreement to which the Incorporated Institute was a party immediately before the commencement of this Bill, whether in writing or not and whether or not of such nature that the rights, liabilities and obligating thereunder could be assigned by the Incorporated Institute, shall have effect from the commencement of the Bill so far it relates to property transferred by this Bill to the Institute, as if—

(*a*) the Institute had been a party to the agreement;

(*b*) for any reference (however worded and whether express or implied) to a member or members of the Council or the Incorporated Institute there were substituted as respects anything failing to be done on or after the commencement of the Bill, a reference to the Institute; and

(*c*) for any reference (however worded and whether express or implied) to a member or members of the Council of the Incorporated Institute there were substituted, as respects anything failing to be done on or after the commencement of the Bill, a reference to a member or members of the Council under this Bill.

(2) Other documents referring, whether specifically or generally, to the Incorporated Institute shall be construed in accordance with subparagraph (1) of this paragraph so far as applicable.

(3) Without prejudice to the generality of the foregoing provisions of this Schedule, where, by the operation of any of them or any section of this Bill, any right, liability or obligation vests in the Institute, the Institute and all other persons shall, as from the commencement of this Bill, have the same rights powers and remedies (and, in particular, the same rights as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Institute.

(4) Any legal proceedings or application to any authority pending on the commencement of this Bill by or against the Incorporated Institute and relating to property transferred by this Bill to the Institute may be continued on or after that day by or against the Institute.

(5) If the law in force at the place where any property transferred by this Bill is situated provides for the registration of transfers or property of the kind in question (whether by reference to an instrument of transfer or otherwise), the law shall, so far it provides for alterations of a register but not for avoidance of transfers, the payment of fees or any other matter apply with the necessary modifications to the transfer of the property aforesaid, and it shall be the duty of the Council to furnish the necessary particulars of the transfer to the proper officer of the registration authority, and of that officer the transfer accordingly.

Transfer of Functions, etc.

2. (1) At its first meeting, the Council of the Institute shall fix a date (not later than six months after the commencement of this Bill, for the Annual General Meeting of the Institute.

(2) The members of the Council of the Incorporated Institute shall be deemed to be the members of Council of the Institute until the date determined in pursuance of the subparagraph (1) of this paragraph when the Institute shall have its first Annual General Meeting, and they shall cease to hold office at the conclusion of such meeting.

(3) Any person who, immediately before the commencement of this Bill, held office as the President or Deputy President of the Incorporated Institute by virtue of the articles of association shall on that day become the President or as the case may be, the Deputy President of the Institute, and shall be deemed —

(*a*) to have been elected to that office in pursuance of the provision of this Bill, corresponding to the relevant provision in the said articles of association; and

(*b*) to have been elected on the date on which he took office, or last took office, in pursuance of the relevant provision of those articles.

(4) The members of the Incorporated Institute shall, as from the commencement of this Bill, be registered as member of the Institute and, without prejudice to the generality of the provisions of this Schedule relating to the transfer of property, any person who immediately before the commencement of this Bill, was a member of the staff of the Incorporated Institute shall on that day become the holder of an appointment with the Institute with the status, designated and functions which correspond as nearly as may be to those appertained to him in his capacity as a member of staff of the Incorporated Institute.

(5) Any person being an office holder on, or member of, the Council of the Incorporated Institute immediately before the commencement of this Bill and deemed under this paragraph to have been appointed to any position in the Institute, or the Council of the Institute, and hereafter ceasing to hold office otherwise than by reason of his misconduct, shall be eligible for appointment to office in the Institute or to membership of the Council, as the case may be.

(6) All regulations, rules and similar instruments made for the purpose of the Incorporated Institute and in force immediately before the commencement of this Bill shall, except in so far as they are subsequently revoked or amended by any authority having power in that behalf, have effect with necessary modifications, as if duly made for the corresponding purpose of the Institute.

Question that the provisions of the Second Schedule stand part of the Bill — Agreed to.

THIRD SCHEDULE

Section 15 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE DISCIPLINARY TRIBUNAL AND INVESTIGATING PANEL

The Tribunal

1. (1) The quorum of the Tribunal shall be four.

(2) The Council shall make rules as to the selection of members of the Tribunal for the purpose of any proceedings and as to the procedure to be followed and rules of evidence to be observed in proceedings before the Tribunal.

2. The rules shall in particular provide —

(*a*) for securing that notice of the proceedings shall be given , at such time and in such manner as may be specified by the rules, to the person who is the subject of the proceedings;

(*b*) for determining who in addition to the person aforesaid, shall be a party to the proceedings;

(*c*) for securing that any party to the proceedings shall, if he so requires be entitled to be heard by the Tribunal;

(*d*) for enabling any party to the proceedings to be represented by a legal practitioner;

(*e*) subject to the provisions of section 12 of this Bill, as to be costs of proceedings before the Tribunal;

(*f*) for requiring in a case where it is alleged that the person who is the subject of the proceedings is guilty of infamous conduct in any professional respect, that where the Tribunal adjudges that the allegations has not been proved it shall record a finding that the person is not guilty of such conduct in respect of the matters to which the allegation relates; and

(*g*) for publishing in the print media notice of any direction of the Tribunal, which has, taken effect providing that a person's name shall be struck off a register.

3. For the purpose of any proceedings before the Tribunal, any member of the Tribunal may administer oaths and any party to the proceedings may sue out of the registry of the High Court writs of subpoena ad testificandum and ducestecum; but no person appearing before the Tribunal shall be compelled —

(*a*) to make any statement before the Tribunal tending to incriminate himself; or

(*b*) to produce any document under such a writ which he could not be compelled to produce at the trial of an action.

4. (1) For the purposes of advising the Tribunal on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the Tribunal who shall be appointed by the Council on the nomination of the Attorney-General of the Federation and shall be a legal practitioner of no less than ten years standing.

(2) The Attorney-General of the Federation shall make rules as to the functions of assessors appointed under this paragraph and in particular such rules shall contain provision for securing —

(*a*) that where an assessor advises the Tribunal on any question of law as to evidence, procedure or any other matters specified by the rule, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the Tribunal is deliberating in private, that every such party or person as aforesaid shall be informed what advice the assessor has tendered; and

(*b*) that every such party or person as aforesaid shall be informed if in any case the Tribunal does not accept the advice of the assessor on such a question as aforesaid.

(3) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument by which he is appointed.

The Panel

5. (1) The quorum of the Panel shall be three. The panel may, at any meeting of the panel attended by the members of the panel, make standing orders with respect of the panel.

(2) Subject to the provisions of any such standing orders, the panel may regulate its own procedure.

Miscellaneous

6. A person ceasing to be a member of the Tribunal or the Panel shall be eligible for reappointment as a member of that body.

Question that the provisions of the Third Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Provide for the Establishment of the Chartered Institute of Treasury Management; for the Promotion, the study and practice of properly managing the Treasury as a safeguard against Fraud, outright Embezzlement, Emasculation, Misappropriation/Misapplication of Resources placed in the custody of Fund Managers; and for Other Matters Connected Therewith, 2017 and approved as follows:

Clauses 1- 22	—	As Recommended
Schedules 1-3	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

13. **Federal School of Medical Laboratory Technology (Science), Jos (Establishment, etc.) Bill, 2017 (HB. 39) - Concurrence:**
Motion made: That a Bill for an Act to Establish the Federal School of Medical Laboratory Technology (Science), Jos and to Provide for Courses Leading to the Award of Diplomas and Certificates in Medical Laboratory Technology and Other Related Courses and for Related Matters, 2017 be read the Second Time *(Senate Leader).*

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Establish the Federal School of Medical Laboratory Technology (Science), Jos and to Provide for Courses Leading to the Award of Diplomas and Certificates in Medical Laboratory Technology and Other Related Courses and for Related Matters, 2017(*Concurrence*) (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO ESTABLISH THE FEDERAL SCHOOL OF MEDICAL LABORATORY TECHNOLOGY (SCIENCE), JOS AND TO PROVIDE FOR COURSES LEADING TO THE AWARD OF DIPLOMAS AND CERTIFICATES IN MEDICAL LABORATORY TECHNOLOGY AND OTHER RELATED COURSES AND FOR RELATED MATTERS, 2017.

PART 1

Clause 1: **Establishment of the School of Medical Laboratory Science, Jos.**

(1) There is hereby established a Federal School of Medical Laboratory Science, Jos (in this Bill referred to as "the School") which shall have the functions and powers conferred on it by this Bill.

(2) The School shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Constitution of the board.**
The School shall consist of:

(*a*) a Governing Board

(*b*) an Academic Board

(*c*) a Body to be called Congregation

(*d*) a Body to be called Convocation.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Establishment and Composition of the Governing Council of the School.**

(1) There is also established for the School the Governing Council of the Federal School of Medical Laboratory Science (in this Bill referred to as "the Council").

(2) The Council shall consist of:

(*a*) a Chairman who is a Fellow of Medical Laboratory Science Council of Nigeria and shall be appointed by the President.

(*b*) a representative of each of the following Federal Ministries:

(*i*) Health,

(*ii*) Education;

(*c*) a representative of the Association of Medical Laboratory Scientist of Nigeria.

(*d*) two persons, at least one of whom shall be a woman, selected on their personal merit based on their contribution either to the development of Medical Laboratory Science or their special interest in Medical Science education;

(*e*) the Provost of the School;and

(*f*) a representative of the Academic Board of the School.

Schedule.

(3) The Supplementary Provisions set out in the Schedule to this Bill shall have effect with respect to the proceedings of the Council and other matters contained therein.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

Clause 4: Tenure Office of Members of Council

(1) A member of the Council (other than an *ex-officio* member) shall hold Office for a term of three (3) years and subject to subsection (2) of this Section shall be eligible for re-appointment for a further period of three (3) years and no more.

(2) A member of Council other than an *ex-officio* member may by notice address to the Council resign his appointment.

(3) The Ministry may, in writing with the approval of the President remove any member of the Council if he is satisfied that it is not in the interest of the School that the member concerned should continue in office.

(4) Member of the Council other than *ex-officio* member shall be paid such remuneration and allowances as may from time to time be determined by the President.

Committee's Recommendation:
That the provision in Clause 4 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 4 *do stand part of the Bill, put and agreed to.*

PART II

Clause 5: Functions of the School.

The function of the School shall be to:

(*a*) provide courses of instruction, training and research in:

(i) Medical Laboratory Science,

(ii) such other fields of applied learning relevant to the needs of the development of Nigeria in the areas of Medical Laboratory Science courses; and for research in the development and adaption of techniques as the Council may from time to time determine;

(b) produce technical, professional and such other skilled personnel normally required for Medical Laboratory Science,

(c) arrange Conferences, Seminars and Study groups relevant to the fields of learning specified in subsection (a) above:

(d) perform such other functions as in the opinion of the Council may serve to promote the objective of the School.

Committee's Recommendation:
That the provision in Clause 5 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 5 *do stand part of the Bill, put and agreed to.*

Clause 6: **Functions of the Council.**

(1) Subject to the provisions of this Bill, the Council shall be the Governing Body of the School and shall control the general management of the affairs of the School and in particular, the control of the property and finances; and shall also have power to do anything which in its opinion is calculated to facilitate carrying out the activities of the School and promote its best interests;

(2) The Council may acquire and hold such movable or immovable property as may be necessary or expedient for carrying into effect the provisions of this Bill and for the same purpose may sell, lease, mortgage or otherwise alienate or dispose of any property so acquired;

(3) The Council may enter into such contract as may be necessary or expedient for carrying into effect the provisions of this Bill.

Committee's Recommendation:
That the provision in Clause 6 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 6 *do stand part of the Bill, put and agreed to.*

Clause 7: **Powers of the School**

The School shall have power to:

(a) award Diplomas and Certificate for courses provided by it under section 5 of this Bill;

(b) enter into such contracts as may be necessary or expedient for carrying into effect the provisions of this Bill;

(c) acquire, hold, lease, sell, mortgage or otherwise alienate or dispose of any property, movable or immovable;

(*d*) invest its funds in such manner and to such extent as it may think necessary or expedient;

(*e*) establish and maintain a library, comprising such books, journals, records, reports and other publications and information systems as may be required for the discharge of the functions conferred on the School by this Bill;

(*f*) accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organization making the gift. Provided that the School shall not accept any gifts if the terms and conditions attached there to are inconsistent with its functions under this Bill.

Committee's Recommendation:
That the provision in Clause 7 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 7 do stand part of the Bill, put and agreed to.

Clause 8: **Directives by the Minister.**
The Minister may give the Council Directives of a General Character or relating generally to matters of Policy with regard to the exercise by the Council of functions under this Bill and it shall be the duty of the Council to comply with such directives.

Committee's Recommendation:
That the provision in Clause 8 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 8 do stand part of the Bill, put and agreed to.

PART III

Clause 9: **Appointment of the Provost of the School.**

(1) There shall be a Provost for the School (in this Bill referred to as "the Provost") who shall be a Fellow of Medical Laboratory Science Council of Nigeria and shall be appointed by the Board from a list supplied to it by the Academic Board, of three persons of high academic standing, proven administrative ability and good character, and on such terms and conditions of service as stipulated in his letter of appointment.

(2) The Provost shall be the Chief Academic and Administrative Officer of the School.

Committee's Recommendation:
That the provision in Clause 9 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 9 do stand part of the Bill, put and agreed to.

Clause 10: **Qualification for the post of Provost.**
A person to be appointed Provost shall posses:

(*a*) a Post Graduate Degree in Medical Laboratory Science with evidence of publications in the relevant fields;

(*b*) appropriate professional qualifications in Medical Laboratory Science and be registered with the Medical Laboratory Science Council of Nigeria.

(*c*) not less than 10 years cognate experience in the field of Medical Laboratory Science.

Committee's Recommendation:
That the provision in Clause 10 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 10 *do stand part of the Bill, put and agreed to.*

Clause 11: Duties of the Provost.
The Provost shall be responsible for:

(*a*) the day to day administration of the School;

(*b*) the exercise of general authority over the employees of the School; and

(*c*) the discipline of the students in the School.

Committee's Recommendation:
That the provision in Clause 11 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 11 *do stand part of the Bill, put and agreed to.*

Clause 12: Tenure of the Office of the Provost.
The Provost shall hold office for a period of four (4) years and shall be re-appointed for a further period of four (4) years and no more.

Committee's Recommendation:
That the provision in Clause 12 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 12 *do stand part of the Bill, put and agreed to.*

Clause 13: Terms and conditions of Office of the Provost.
The Provost shall hold office on such terms and conditions as may be determined by the Minister and set out in his letter of appointment.

Committee's Recommendation:
That the provision in Clause 13 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 13 *do stand part of the Bill, put and agreed to.*

Clause 14: Vacancy of Office of the Provost.
Where the post of the Provost is vacant, the Council shall:

(*a*) advertises the vacancy in a reputable journal and widely read newspaper in Nigeria specifying:

(*i*) the qualities of a person who may apply for the position;

(*ii*) the terms and conditions of service applicable to the post and thereafter, draw up a short list of suitable candidates for consideration;

(*b*) a Joint Committee of the Council and the Academic Board consisting of:

(*i*) the Chairman of the Council,

(*ii*) two members of the Council not being members of the Academic Board and not below the rank of Chief Lecturer shall be considered the candidates on the short list drawn up under subsection (*a*) (*ii*) of this section through an examination of their curriculum vitae and interaction with them and recommend to the Council qualified candidates for its consideration.

Committee's Recommendation:
That the provision in Clause 14 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 14 *do stand part of the Bill, put and agreed to.*

Clause 15: Registrar of the School.

(1) There shall be a Registrar for the School who shall be responsible to the Provost for the day-to-day administration of the College and shall perform such other duties as the Council, or as the case may be, the Provost may from time to time require him to do.

(2) The Registrar shall be the Secretary to the Council, the Academic Board and any Committee of the Council and shall attend all the meetings of those bodies unless excused for good cause or reason by the Chairman of the Council.

(3) Where the Registrar is absent for a meeting of the Council, the Chairman of the Council may, after consultation with the Provost, appoint a suitable person to act as secretary for any particular meeting the Council.

(4) The Secretary to the Council or a person appointed to act under subsection (3) of this section shall not entitled to vote on any question before the Council or be counted towards a quorum unless such a person is so entitled as a member of the Council.

Committee's Recommendation:
That the provision in Clause 15 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 15 *do stand part of the Bill, put and agreed to.*

Clause 16: Tenure of Office of the Registrar.

(1) A Registrar:

(*a*) shall hold office for a period of four years effective from the date of his appointment and on such terms and conditions as may be specified in the letter of his appointment; and

(*b*) may be re-appointed for one further period of four years and no more

(2) Where on the commencement of this Bill, a Registrar has held office:

(*a*) for four (4) years or less, he shall be deemed to be serving his first term of office and may be re-appointed for a further term of four years.

(*b*) for more than four (4) years but less than eight (8) years, he shall complete the maximum period of eight (8) years and thereafter relinquish his position and be assigned other duties in the School;

(*c*) for eight(8) years or more, the Council may allow him to serve as Registrar for a further period of one year only and thereafter he shall relinquish his post and be assigned other duties in the School.

Committee's Recommendation:
That the provision in Clause 16 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 16 *do stand part of the Bill, put and agreed to.*

Clause 17: Appointment of the Deputy Provosts.

(1) There shall be for the School two (2) Deputy Provosts who shall assist the Provost in the discharge of his functions as follows: -

(*i*) Deputy Provost I — Administration;

(*ii*) Deputy Provost II — Academics.

(2) Each Deputy Provost shall be a person of high Academic and moral standing and manifest administrative experience, and shall be appointed by the Council on the recommendation of the Provost.

(3) The Council shall appoint the Deputy Provost from among the Chief Lecturers in the School in one of the following ways:

(*a*) from a list of three candidates, in order of preference, submitted by the Provost, or

(*b*) on the recommendation of the Selection Board constituted for the School.

(4) The Selection Board referred to in subsection (3) (*b*) of this section shall consist of:

(*i*) the Chairman of the Council;

(*ii*) the Provost;

(*iii*) two members of the Council not being members of the Academic Board;

(*iv*) two members of the Academic Board; and

make such inquires as it deems fit before making the recommendation required under subsection (3) (*b*).

(5) The Deputy Provosts shall:

(*a*) assist the Provost in the performance of his functions;

(*b*) act (in the case of the Deputy Provost I) in the place of the Provost when the post of the Provost is vacant or if the Provost is, for any reason, absent or unable to perform his functions as Provost; and

(*c*) perform such other functions as the Provost or the Council may from time to time, assign to them;

(6) A Deputy Provost:

(*a*) shall hold office for a period of four (4) years beginning from the effective date of his appointment and on such terms and conditions as may be specified in his letter of appointment; and

(*b*) may be re-appointed for one further period of four years and no more.

Committee's Recommendation:
That the provision in Clause 17 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 17 *do stand part of the Bill, put and agreed to.*

Clause 18: Other Principal Officers of the School.

(1) There shall be for the School the following other Principal Officers in addition to the Registrar, that is: -

(*a*) the Bursar;

(*b*) the School Librarian;

(*c*) the Director of Works Services;

(*d*) the Director of Medical and Health Services; who shall be appointed by the Council on the recommendation of the Selection Board constituted under section 17 (3) (*b*) of this Bill.

(2) The Bursar shall be the Chief Financial Officer of the School and shall be responsible to the Provost for the day to day administration and control of the financial affairs of the School.

(3) The School Librarian shall be responsible to the Provost for the administration of the School Library and the co-ordination of the library Services in the teaching units of the School.

(4) The Director of Works Services shall be responsible to the Provost for the maintenance of the School buildings, minor works, transport and the supervision of the School's constructions projects.

(5) The Director of Medical and Health Services shall be responsible to the Provost for the supervision of the Medical and Health Services and facilities of the School.

(6) (*a*) The Principal Officers mentioned in subsection (1) of this section, shall hold office for a period of four (4) years in the first instance and on such terms and conditions as may be specified in his letter of appointment.

(*b*) May be re-appointed for a further period of four (4) years and no more.

(*c*) Any question as to the scope of the responsibilities of the aforesaid Officers shall be determined by the Provost.

(7) Where on the commencement of this Bill, a Bursar, Librarian, Director of Works Services and Director of Medical and Health Services has held office:

(*a*) for four (4) years or less, he shall be deemed to be serving his first term of office and may be re-appointed for a further term of four (4) years

(*b*) for more than four (4) years but less than eight (8) years he, shall complete the maximum period of eight years (8) and thereafter relinquish his post and be assigned other duties in the School;

(*c*) for eight (8) years or more, he shall relinquish his post and be assigned to other duties in the School.

Committee's Recommendation:
That the provision in Clause 18 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 18 *do stand part of the Bill, put and agreed to.*

Clause 19: Resignation of Appointment by Principal Officers.
Principal Officer may resign his appointment:

(*a*) in the case of the Provost, by notice to the Council who shall forward it to the President;

(*b*) in any other case, by notice to the Provost who shall forward it to the Council.

Committee's Recommendation:
That the provision in Clause 19 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 19 *do stand part of the Bill, put and agreed to.*

Clause 20: Appointment of other employees of the School.

(1) The Council may appoint such other persons to be employees of the School as the Council may determine to assist the Provost and the Principal Officers of the School in the performance of their functions under this Bill.

(2) The power to appoint all other Staff of the School apart from the Provost and the Principal Officers shall be exercised:

(*a*) in the case of a Senior Staff, by the Council on the Recommendation of the Senior Staff Appointments and Promotions Committee set up under the provision of paragraph 2 (2) (*a*) of the Schedule to this Bill;

(*b*) in the case of a Junior Staff, by the Provost on the Recommendation of the Junior Staff Appointments and Promotions Committee set up under paragraph 2 (2) (*b*) of the Schedule to this Bill.

(3) The remuneration of staff of the School shall be determined by the Council with the approval of the Minister.

Committee's Recommendation:
That the provision in Clause 20 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 20 *do stand part of the Bill, put and agreed to.*

Clause 21: **Staff Regulations and Conditions of Service.**

(1) The Council may, subject to the provisions of this Bill, make Staff regulations relating generally to the conditions of service of the staff of the School and without prejudice to the generality of the foregoing, such regulations may provide for:

(*a*) the appointment, promotion and discipline of employees of the School;

(*b*) appeals by such employees against dismissal or other disciplinary measures, and until such regulations are made, any instrument relating to the Conditions of Service of Public Officers in the university system shall be applicable, with such modifications as may be necessary, to employees of the School; and

(*c*) the rates of remunerations, scales of salary, contract conditions, super-annuations arrangements and other conditions of service of members of the Academic, Administrative and Technical staff shall be determined from time to time by the Council.

(2) The Provost/CEO and other Academic staff shall retire on attainment of 65 years of age, while Non-Academic staff shall retire on attainment of 60 years of age as applicable to other Training/Research Institutions

(3) Staff regulations made under subsection (1) of this section shall not have effect until approved by the Minister and when so approved, the regulations need not be published in the gazette but the Council shall cause them to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

Committee's Recommendation:
That the provision in Clause 21 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 21 *do stand part of the Bill, put and agreed to.*

Clause 22: **Establishment of Academic Board for the school.**

(1) There shall be established for the School a Board to be known as the Academic Board which shall consist of the following members:

(*a*) the Provost of the School as the Chairman;

(*b*) the Deputy Provosts of the School;

(*c*) all Heads of Departments;

(*d*) the Librarian; and

(*e*) not more than two members of the Academic Staff other than Heads of Departments who may be appointed by the Academic Board.

(2) The Academic Board shall be responsible for:

(*a*) the Direction and Management of Academic matters of the School including the regulation of admission of students, the award of certificates in Medical Laboratory Technology (Science), based on agreed quota by NUC and MLSCN, scholarships, prizes and other Academic distinctions;

(*b*) presenting to the Council of such periodic reports on such Academic matters as the Academic Board may think fit or as the Council may from time to time direct; and

(*c*) the discharge of any other functions which the Council may delegate to it.

Committee's Recommendation:
That the provision in Clause 22 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 22 *do stand part of the Bill, put and agreed to.*

Clause 23: Removal of the Provost from Office.
Where it appears to the Council that the Provost should be removed from office on the grounds of misconduct (on conviction from a court of competent jurisdiction and or panel of inquiry if not challenged in court) or inability to perform the functions of his office, the Council shall make a recommendation to that effect to the President and if the President, after making such inquiries as he considers necessary, approves the recommendation, the President shall in writing, declare the office of the Provost vacant.

Committee's Recommendation:
That the provision in Clause 23 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 23 *do stand part of the Bill, put and agreed to.*

Clause 24: Removal of Staff of the School from Office.
(1) Where it appears to the Council that there are reasons for believing that any person employed as a member of the Academic Staff, Administrative or Technical staff of the School other than the Provost, should be removed from office on the ground of misconduct or inability to perform the functions of his office the Council shall:

(*a*) give notice of those reasons to the person in question,

(*b*) afford him an opportunity of making representations in person on the matter to the Council; and

(*c*) if he or any three members of the Council so request within the period of one month beginning with the date of the notice, make arrangements:

(*i*) if he is an Academic Staff, for a joint committee of the Council and the Academic Board to investigate the matter and report to the Council;

(*ii*) for a Committee of the Council to investigate the matter, where it relates to any other member of staff of the School and report to the Council; and

(*iii*) for the person in question to be afforded an opportunity of appearing and making presentations before the Investigation Committee with respect to the matter. And if the Council after considering the report of the Investigating Committee, is satisfied that the person in question should be removed as aforesaid, the Council may so remove him by an instrument in writing signed on the directions of the Council.

(2) The Provost may, in the case of misconduct by a member of staff which in the opinion of the Provost is prejudicial to the interests of the School, suspend such member and any such suspension shall forthwith be reported to the Council.

(3) A member of staff may be suspended from office for good cause, or his appointment may be terminated by the Council. For the purpose of this Subsection, "good cause" means:

(*a*) any physical or mental incapacity which the Council, after obtaining advice from a panel of two (2) Medical Experts constituted by the Council, considers to be such as to render the person concerned unfit for the discharge of the functions of his office;

(*b*) any physical or mental incapacity which the Council, after obtaining medical advice from a panel of two (2) Medical Experts constituted by the Council, considers to be such as to render the person concerned unfit to continue to hold his office;

(*c*) conduct of a scandalous or disgraceful nature which the Council considers to be such as to render the person concerned unfit to continue to hold his office;

(*d*) conduct which the Council considers to be such as to constitute failure or inability of the person concerned to discharge the functions of his Office or to comply with the terms and conditions of service.

(4) Any person suspended pursuant to subsection (2) or (3) of this Section, shall be placed on half pay and the Council shall before the expiration of the three months after the date of such suspension considers the case against that person and come to a decision as to:

(*a*) whether to continue such person's suspension and if so on whatterms (including the proportion of the emoluments to be paid to him);

(*b*) whether to reinstate such person, in which case the Councilshall restore his full emoluments to him with effect from the date of suspension;

(*c*) whether to terminate the appointment of the person in question, in which case such a person, will not be entitled to the proportion of his emoluments withheld during the period of suspension;

(*d*) whether to take such lesser disciplinary action against such person (including the restoration of such proportion of his emoluments that might have been withheld) as the Council may determine, and in any case where the Council, pursuant to this section, decides to continue a person's suspension or decides to take further disciplinary action against a person, the Council shall before the expiration of a period of three months from such decision come to a final determination in respect of the case concerning any such person.

(5) It shall be the duty of the person by whom an instrument of removal is signed in pursuance of subsection (1) above to use his best endeavors to cause a copy of the instrument to be served as soon as reasonably practicable on the person to whom it relates.

(6) Nothing in the foregoing provisions of this section shall prevent the Council from making such regulations for the discipline of other categories of staff and workers of the School as it may think fit.

Committee's Recommendation:
That the provision in Clause 24 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 24 *do stand part of the Bill, put and agreed to.*

Clause 25: Discipline of Students.

(1) The Council may make rules providing for the Provost to conduct enquiries into alleged acts of misconduct (including lack of discipline) by students and such rules may make different provisions for different circumstances.

(2) The rules shall provide for the procedure and rules of evidence to be followed at enquiries under this section.

(3) Subject to the provisions of this section, where it appears to the Provost that any student of the School has been guilty of misconduct, the Provost may without prejudice to any other disciplinary powers conferred on him by this Bill or regulations, made hereunder direct:

(*a*) that the student shall not, during such period as may be specified in the Direction, participate in such activities of the School or make use of such facilities of the School as he may specify;

(*b*) that the activities of the students shall during such period as may be specified in the Direction, be restricted in such manner as may be so specified:

(*c*) that the student be suspended for such period as may be specified in the Directions: and

(*d*) that the student be expelled from the School.

(4) Where the post of the Provost is vacant or where the Provost refuses to apply any disciplinary measures the Council may either directly or through some other staff apply such disciplinary actions as are specified in subsection (1) of this section to any student of the School who is considered guilty of misconduct.

(5) Where a Direction is given under subsection (3) (*c*) or (*d*) above in respect of any student, the student may, within a period of twenty one (21) days from the date of the letter communicating the decision to him appeal from the Direction to the Council; and where such an appeal is brought, the Council shall, after causing such inquiry to be made in the matter as the Council considers just either confirm or set aside the Direction or modify it in such manner as the Council may think fit.

(6) The fact that an appeal from a Direction is pending pursuant to subsection (5) of these sections shall not affect the operation of the Direction while the appeal is pending.

(7) The Provost may delegate his powers under this section to a Disciplinary Committee of such members of the School as he may nominate.

(8) Nothing in this section shall be construed as terminating a student's activity(ies) at the School except on the ground of misconduct.

(9) It is hereby declared that the Direction under subsection (3) (*a*) of this section may be combined with a Direction under subsection (3) (*b*) of this section.

(10) In all cases under this section, the decision of the Governing Council shall be final.

Committee's Recommendation:
That the provision in Clause 25 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 25 *do stand part of the Bill, put and agreed to.*

Clause 26: Financial provisions.

(1) The Council shall keep proper records and accounts of its activities and shall cause to be prepared not later than 1st October in each financial year an estimate of its revenue and expenditure for the ensuing financial year and when prepared the estimates shall be submitted to the Minister for approval.

(2) At the end of each financial year but not later than 30th June, the Council shall cause to be prepared a statement of its income and expenditure during the previous financial year. The statement referred to in subsection (2) above shall, when certified by the Provost, be audited by a Firm of Auditors appointed by the Council from a list of four (4) Firms in accordance with the guidelines supplied by the Auditor General of the Federation and shall be published in the Annual Report of the School.

Committee's Recommendation:
That the provision in Clause 26 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 26 *do stand part of the Bill, put and agreed to.*

Clause 27: Establishment of Fund for the School.

(1) The School shall establish and maintains a fund from which shall be defrayed all expenditure incurred by the School in the performance of its functions under this Bill.

(2) The funds of the School shall include:

(*a*) such sums as may, from time to time, be granted to the School by the Federal Government of Nigeria;

(*b*) fees charged and payable to the School by the students

(*c*) any other amount, charged or dues recoverable by the College;

(*d*) revenue from time to time accruing to the School by way of Subvention, grants-in-aid, endowment or otherwise;

(*e*) interest on investments; and

(*f*) donations and legacies accruing to the School from any source, for the general or special purpose of the School.

Committee's Recommendation:
That the provision in Clause 27 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 27 *do stand part of the Bill, put and agreed to.*

Clause 28: Donations for particular purposes.

(1) Donations of money to be applied to any particular purpose shall be placed to the credit of a Special Reserve Account approved by the Council until such time as they may be expended in fulfillment of such purpose.

(2) The Council shall not be obliged to accept a donation for a particular purpose unless it approves of the terms and condition attached to such donation.

Committee's Recommendation:
That the provision in Clause 28 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 28 *do stand part of the Bill, put and agreed to.*

Clause 29: Payment into Bank.

All sums of money received on account of the School shall be paid into such bank as may be approved for the credit of the School's general current or deposit account.

Committee's Recommendation:
That the provision in Clause 29 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 29 *do stand part of the Bill, put and agreed to.*

Clause 30: Annual Report.

The Council shall on or before 31st December in each year prepare and submit to the President through the Minister a report of its activities during the preceding financial year and shall include in the report, the audited accounts of the School in respect of that financial year and the Auditor's comments on the account.

Committee's Recommendation:
That the provision in Clause 30 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 30 *do stand part of the Bill, put and agreed to.*

Miscellaneous and supplemental

Clause 31: **Power to make bye-laws.**

(1) The Council may make bye-laws relating to any matter within its competence under this Bill other than matters for which provision is to be made by standing orders pursuant to paragraph (6) of the schedule to this Bill.

(2) All such bye-laws shall be in writing and shall come into force when sealed with the seal of the Council unless some other date for their commencement is prescribed therein.

(3) Nothing in subsection (2) above shall make it obligatory for the Council to publish any of the said bye-laws in the Gazette but the Governing Council shall bring such bye-laws to the notice of all affected persons.

Committee's Recommendation:
That the provision in Clause 31 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 31 *do stand part of the Bill, put and agreed to.*

Clause 32: **Exclusion or Discrimination on Account of Race, Religion, etc.**
No person shall be required to satisfy requirements as to any of the following matters, that is to say, race (including ethnic grouping), sex, of place of birth, family origin, religious or political persuasion as a condition for becoming or continuing to be a student at the School or as a holder of any certificate of the School or any appointment or employment at the School, or a member of any Body established by virtue of this Bill; and no person shall be subjected to any disadvantage or accorded any advantage in relation to the School by reference to any of the aforementioned matters. Provided that nothing in this section shall be construed as preventing the School from imposing any disability or restriction on any person(s) where such person willfully refuses or falls on grounds of religious belief to undertake any duty generally and uniformly imposed on all such person(s) or any group of them which duty, having regard to its nature and the special circumstance pertaining thereto is, in the opinion of the School, reasonably justifiable in the national interest.

Committee's Recommendation:
That the provision in Clause 32 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 32 *do stand part of the Bill, put and agreed to.*

Clause 33: **Vesting of all assets and liabilities of the dissolved Federal School of Medical Laboratory Technology.**

(1) By virtue of this Bill, all property (movable and immoveable) held by or on behalf of the School shall, as from the commencement of this Bill, vest in the School.

(2) Upon the commencement of this Bill:

(*a*) all rights, interest, obligations and liabilities of the School existing immediately before the commencement of this Bill under any contract or instrument; or at law or in equity, apart from any contract or instrument, shall, by virtue of this Bill, be assigned to and vested in the School;

(*b*) any such contract or instrument as is mentioned in subparagraph (*a*) above shall be of the force and effect against or in favor of the college and shall be enforced fully and effectively as if the School had been named therein or had been a party thereto; and

(*c*) the School shall be subject to all the obligations and liabilities to which the School was subject to immediately before the commencement of this Bill and all other persons shall, as from the commencement of this Bill, have the same rights, power and remedies against the School as they had against the School immediately before the said commencement.

(3) If immediately before the commencement of this Bill a person was a member or an employee of the School that person shall be virtue of this Bill become a member or an employee of the School.

(4) Any proceeding or cause of action pending or existing before the commencement of this Bill by or against the School may be commenced continued or enforced by or against the School as it might have been against the School if this Bill had not been made.

Committee's Recommendation:
That the provision in Clause 33 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 33 *do stand part of the Bill, put and agreed to.*

Clause 34: Interpretation.
In this Bill:

"Academic Board" means the board established under section 22 of this Bill.

Question: That the words " Academic Board " defined in the Interpretation to this Act, put and agreed to.

"Senior Staff Appointments and Promotions Committee" means a body by that name established under paragraph 2 (2) (*a*) of the schedule to this Bill.

Question: That the words " Senior Staff Appointment and Promotions Committee " defined in the Interpretation to this Act, put and agreed to.

"Junior Staff Appointments and Promotions Committee" means a body by that name set up under paragraph 2 (2) (*b*) of the schedule to this Bill.

Question: That the words " Junior Staff Appointment and Promotion Committee " defined in the Interpretation to this Act, put and agreed to.

"Minister" means the Federal Minister charged with responsibility for matters relating to Health.

Question: That the word " Minister " defined in the Interpretation to this Act, put and agreed to.

"Registrar" means the Registrar of the School appointed under section 15 (1) of this Bill.

Question: That the word " Register " defined in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:
That the provision in Clause 34 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 34 *do stand part of the Bill, put and agreed to.*

Clause 35: **Citation.**
This Bill may be cited as the Federal School of Medical Laboratory Technology (Science) Bill, 2017.

Committee's Recommendation:
That the provision in Clause 35 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 35 *do stand part of the Bill, put and agreed to.*

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

1. The Council may act notwithstanding any vacancy in its membership or the absence of any member or that a person not entitled to do so take part in its proceedings.

Committees

2. (1) The Council may appoint one or more Committees to which it may delegate any of its functions.

(2) Without prejudice to the generality of sub-paragraph (1) of this schedule, the Council shall appoint the following Committees that are:

(*a*) the Senior Staff Appointments and Promotions Committee which shall:

(*i*) consist of a Chairman and four (4) members who shall be appointed by the Council, and four (4) other members who shall be appointed by the Provost from members of the Senior Staff of the School;

(*ii*) be charged with the responsibility of making recommendations to the Council on the appointment and promotion of the Academic and Senior Staff of the School and have a quorum of five (5) members; and if the Chairman of the Committee is absent from any meeting of the Committee, the members present shall elect one of their members to act as Chairman for that particular meeting;

(*b*) the Junior Staff Appointments and Promotions Committee which shall consist of a Chairman and four (4) other members to be appointed by the Provost and shall have the powers set out in sections 20 (2) (*b*) of this Bill.

(*c*) the Committee on Students' Affairs which shall consist of the following members:

(*i*) a Chairman who shall be appointed by the Provost from among the Senior Employees of the School;

(*ii*) one member of the Council;

(*iii*) two members of the Academic Staff of the School;

(*iv*) four (4) students of the School;

(*d*) the Committee on Student's Affairs shall be charged with the duty of:

(*i*) considering any matter which relates to the welfare of students;

(*ii*) any other matter referred to it by either the Council or students of the School;

(*e*) any matter which the students refer to the Council shall be referred to the Committee on Students' Affairs in the first instance.

(3) No decision of a Committee shall have effect unless same is confirmed by the Council.

Proceedings of the Council

3. (1) The Council shall meet for the conduct of business at such times as the Chairman of the Council may appoint but the meeting of the Council shall hold not less than twice in a year.

(2) The Chairman of the Council may at any time and shall at the request in writing of not less than five (5) members of the Council summon a meeting of the Council.

(3) Particulars of the business to be transacted by the Council shall be circulated to Members with the Notice of the Meeting at least two weeks before the date of the meeting.

4. (1) Where the Council desires to obtain the advice of any person on any particular matter, it may co-opt such person as a member for a meeting whether or not expressly convened for the purpose of considering the particular matter but no co-opted member shall be entitled to vote or considered as part of the Quorum.

(2) Every question put before the Council at a meeting shall be decided by a simple majority of the members present and voting.

(3) Seven members shall form a quorum at any meeting of the Council.

(4) The Chairman shall, at any Meeting of the Council, have a vote and in the case of an equality of votes, may cast a deciding vote.

5. The Council may make standing orders with respect to holding meetings, the nature of notices to be given, the proceeding there upon, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.

6. Where the Chairman of the Council is absent from a meeting of the Council, the members present shall elect one (1) of their members to act as Chairman for the purposes of that meeting.

Miscellaneous

7. Any contract or instrument which if entered into by a person not being a body corporate would not be required to be under seal may in like manner be entered into or executed on behalf of the Council by any person generally or specifically authorized by it for that purpose.

8. (1) The Common Seal of the Council shall not be used or affixed to any document except in pursuance of a resolution duly passed at a properly constituted meeting of the Council and recorded in the Minutes of such Meeting.

(2) The fixing of the Seal of the Council shall be authenticated by the signature of the Chairman of the Council and some other member authorized generally or specifically by the Council to act for that purpose.

(3) Any document purporting to be a document duly executed under the Seal of the Council shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

9. Any member of the Council or a Committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or a Committee. There of shall forthwith disclose his interest to the Council and shall not vote on any question relating to such contract or arrangement.

Question that the provisions of the Schedule stand of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Establish the Federal School of Medical Laboratory Technology (Science), Jos and to Provide for Courses Leading to the Award of Diplomas and Certificates in Medical Laboratory Technology and Other Related Courses and for Related Matters, 2017 and approved as follows:

Clauses 1- 35	—	As Recommended
Schedule	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

14. **Police Procurement Fund (Establishment, etc.) Bill, 2017 (HB. 314) - Concurrence:**
Motion made: That a Bill for an Act to Establish the Police Procurement Fund for the Procurement of Law Enforcement Equipment to assist the Nigerian Police Force in the Protection of lives and property; and for Other Related Matters, 2017 be read the Second Time (*Senate Leader*).

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Establish the Police Procurement Fund for the Procurement of Law Enforcement Equipment to assist the Nigerian Police Force in the Protection of lives and property; and for Other Related Matters, 2017 (*Concurrence*) (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO ESTABLISH THE POLICE PROCUREMENT FUND FOR THE PROCUREMENT OF LAW ENFORCEMENT EQUIPMENT TO ASSIST THE NIGERIAN POLICE FORCE IN THE PROTECTION OF LIVES AND PROPERTY; AND FOR OTHER RELATED MATTERS, 2017.

Clause 1: **Establishment of Fund.**
There is hereby established a Fund to be known as the Police Procurement Fund (in this Bill referred to as "the Fund") into which shall be paid —

(*a*) such sums being one percent deduction of monthly revenue allocations due the Federal, State and Local governments;

(*b*) any other sums, from to time, freely donated byother governments, international bodies, non-governmental organizations, private sector or accruing to the Government and;

(*c*) such sums as may be provided for the purpose of equipping the police by the Federal Government.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Utilization of the Fund.**
The Fund shall be utilized for the procurement of body armour, ballistic vests, electronic surveillance equipment, armored vehicles, helicopters, personal carriers, communications equipment, armaments and ammunitions and other law enforcement equipment Uniforms.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Police Procurement Fund Board.**

(1) There shall be for the purpose of administration of the Fund a body to be known as the Police Procurement Fund Board which shall consists of

(*a*) the President of the Federal Republic of Nigeria;

(*b*) the Governor of each State of the Federation;

(*c*) the Chairman of the Police Service Commission;

(*d*) Inspector-General of Police;

(*e*) the Chief Justice of the Supreme Curt;

(*f*) the Governor of Central Bank of Nigeria;

(*g*) the Minister of Finance;

(*h*) the Account-General of the Federation.

(2) The function of the Board shall include the organization, administration and disbursement of the Police Procurement Fund Force and the performance of duties in fulfilment of the purpose of this Bill.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

Clause 4: **Interpretation.**
In this Bill unless the context otherwise requires;

"Board" means the Police Procurement Fund Board.

Question: That the word " Board" defined in the Interpretation to this Act, put and agreed to.

"Fund" means the Police Procurement Fund.

Question: That the word " Fund" defined in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:
That the provision in Clause 4 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 4 *do stand part of the Bill, put and agreed to.*

Clause 5: **Citation.**
This Bill may be cited as the Police Procurement Fund (Establishment) Bill, 2017.

Committee's Recommendation:
That the provision in Clause 5 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 5 *do stand part of the Bill, put and agreed to.*

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Establish the Police Procurement Fund for the Procurement of Law Enforcement Equipment to assist the Nigerian Police Force in the Protection of lives and property; and for Other Related Matters, 2017 and approved as follows:

Clauses 1- 5 — As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

15. **Legislative Houses (Powers and Privileges) Bill, 2017 (HB. 382) - Concurrence:**
Motion made: That a Bill for an Act to Repeal the Legislative Houses (Powers and Privileges) Act, Cap. L12, Laws of the Federation of Nigeria, 2004 and Re-enact the Legislative Powers and Privileges Act, 2014 in order to give the Legislature the desired Powers and Immunity to be able to carry out its Legislative Responsibility; and for Other Related Matters Concern Therewith, 2017 be read the Second Time *(Senate Leader).*

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Repeal the Legislative Houses (Powers and Privileges) Act, Cap. L12, Laws of the Federation of Nigeria, 2004 and Re-enact the Legislative Powers and Privileges Act, 2014 in order to give the Legislature the desired Powers and Immunity to be able to carry out its Legislative Responsibility; and for Other Related Matters Concern Therewith, 2017 *(Concurrence)* *(Senate Leader).*

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO REPEAL THE LEGISLATIVE HOUSES (POWERS AND PRIVILEGES) ACT, CAP. L12, LAWS OF THE FEDERATION OF NIGERIA, 2004 AND ENACT THE LEGISLATIVE POWERS AND PRIVILEGES ACT, 2014 IN ORDER TO GIVE THE LEGISLATURE THE DESIRED POWERS AND IMMUNITY TO BE ABLE TO CARRY OUT ITS LEGISLATIVE RESPONSIBILITY; AND FOR OTHER RELATED MATTERS CONCERN THEREWITH, 2017.

Clause 1: **Immunity from litigation.**
Criminal or civil proceeding shall not be instituted against a Member of the Legislative House in respect of words spoken or written at the plenary session or at Committee proceedings of the Legislative House.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Power to summon a witness: Schedule.**

A Legislative House or a Committee shall have power to summon any person in Nigeria to come and testify, give account, tender a document or any other record in evidence, in the possession or under control of that person, as provided in the Schedule.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Issue and service of summons.**

(1) The summons issued under clause 2 of this Bill, shall be signed by the Clerk of the House or Committee issuing out the summons and shall contain the:

(*a*) time and venue where the person is expected to appear; and

(*b*) nature of document, account or record the person is required to produce.

(2) The summons shall be served at the person's office or residence or his last known place of abode or business, either personally, by registered mail, or by pasting at the door or wall of the person and giving the person at least 5 clear days within which the person is expected to appear.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

Clause 4: **Power to issue warrant to compel attendance: Schedule.**

(1) Where a person whom a summons under clause 3 of this Bill is directed, does not attend as scheduled, the President or the Speaker of the Legislative House may, upon being satisfied that the summons was duly served, issue a warrant to a police officer or Sergeant-at-Arms, to apprehend the person and bring him before the issuing authority.

(2) The President or the Speaker may by endorsement on the warrant direct that the person named on the warrant be released after the arrest, on entering into recognizance before the issuing authority.

Committee's Recommendation:
That the provision in Clause 4 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 4 *do stand part of the Bill, put and agreed to.*

Clause 5: **Witness may be examined on oath.**

A Legislative House or a Committee may examine a witness on Oath which the Clerk is authorized to administer.

Committee's Recommendation:
That the provision in Clause 5 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 5 *do stand part of the Bill, put and agreed to.*

Clause 6: **Privilege of a witness. Cap. E14, LFN, 2004.**

A person summoned before a Legislative House or a Committee to testify, give an account, produce any document or record shall be entitled to, where necessary, privileges on —

(*a*) communication related to unpublished official record of Armed Forces;

(*b*) any evidence protected by the Evidence Act; and

(*c*) any evidence protected by any law regulating the affairs of a profession.

Committee's Recommendation:
That the provision in Clause 6 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 6 *do stand part of the Bill, put and agreed to.*

Clause 7: **False Evidence, Caps C38 and P3, LFN, 2004.**

A person who gives false evidence before a Legislative House or a Committee while answering question, put to the person, shall be liable on conviction under the Criminal or Penal Codes.

Committee's Recommendation:
That the provision in Clause 7 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 7 *do stand part of the Bill, put and agreed to.*

Clause 8: **Obstruction of Members of the Legislative House.**

(1) A Member of a Legislative House shall not be obstructed or hindered from gaining entrance into the Legislative chambers.

(2) A person who —

(*a*) hinders the movement of a Member of a Legislative House into the Chambers or precincts of a Legislative House;

(*b*) interferes or disobey the order given by an Officer of a Legislative House in performing his official functions;

(*c*) creates any disturbance which interrupts or is likely to interrupt the proceedings of a Legislative House; or

(*d*) sits or votes in a Legislative House while the person is not a member of a Legislative House,

commits an offence and shall be liable on conviction to a fine not exceeding ₦100,000.00 or 6 months imprisonment or both.

Committee's Recommendation:
That the provision in Clause 8 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 8 *do stand part of the Bill, put and agreed to.*

Clause 9: **Answers in committee not to be admissible in proceedings.**

An answer by a person to a question put by a Committee of a Legislative House shall not, except in the case of criminal proceedings for the offence of perjury in the or an offence against this Bill, be in any proceedings, civil or criminal, admissible in evidence against him.

Committee's Recommendation:
That the provision in Clause 9 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 9 *do stand part of the Bill, put and agreed to.*

Clause 10: **Power of arrest.**
An officer of a Legislative House may, with or without an order from a Court and warrant of arrest, as provided in the schedule to this Bill, arrest any person —
(*a*) who commits an offence contrary to the provision of this Bill; or

(*b*) within the Chamber or its precincts whom he reasonably suspects of having committed an offence contrary to the provision of this Bill.

Committee's Recommendation:
That the provision in Clause 10 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 10 *do stand part of the Bill, put and agreed to.*

Clause 11: **Ejection of a person from Chamber or its Precincts.**
The President or the Speaker of a Legislative House may, at any time, order for the ejection of a stranger or any other person from the chamber or its precincts.

Committee's Recommendation:
That the provision in Clause 11 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 11 *do stand part of the Bill, put and agreed to.*

Clause 12: **Influencing members.**
A person who —
(*a*) offers a member or officer, of a Legislative House, any bribe, fee, compensation, reward or benefit of any kind in order to influence him in his conduct in respect of promotion of or opposition to any Bill, resolution, or report submitted or intended to be submitted to the Legislative House; or

(*b*) threatens to make use of force, violence, restraint or inflict any injury or damage against a Member or officer of a Legislative House in order to compel such Member to declare himself in favour of or against any matter pending or being expected,

commits an offence and shall be liable on conviction to a fine of N500,000.00 or 2 years imprisonment or both.

Committee's Recommendation:
That the provision in Clause 12 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 12 *do stand part of the Bill, put and agreed to.*

Clause 13: **Acceptance of bribe.**
A Member of a Legislative House who accepts or agrees to accept bribe or attempt to obtain for himself or for other person any bribe, fee, compensation, reward or benefit of any kind for speaking or refraining from speaking, voting or refraining from voting, or influencing any report submitted or intended to be submitted to the Legislative House, commits an offence and shall be liable on conviction to a fine of ₦500,000.00 or 2 years imprisonment or both.

Committee's Recommendation:
That the provision in Clause 13 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 13 *do stand part of the Bill, put and agreed to.*

Clause 14: Contempt of a Legislative House.

(1) A person who —

(*a*) publishes a report of a Committee before it is laid to the Legislative House in plenary session;

(*b*) assaults or obstructs a Members of a Legislative House within the chamber or its precincts;

(*c*) assaults or obstructs a Member of a Legislative House while in execution of his duties;

(*d*) fails to answer the question put to him in the proceedings of the Legislative House; or

(*e*) refuses to abide by laid down procedure of a particular proceeding of a Legislative House, or its Committee,

commits contempt of the Legislative House.

(2) Where a Member is guilty of contempt of a Legislative House, the House may by resolution reprimand such member or suspend him from service of the House, without pay, for such period as may be determined by the House, but not to the end of a legislative session.

(3) Where a person is found guilty of contempt of Legislative House, the person shall be liable to a fine of ₦500,000.00 or 2 years imprisonment or both.

Committee's Recommendation:
That the provision in Clause 14 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 14 *do stand part of the Bill, put and agreed to.*

Clause 15: Restriction on suspended Member.

A suspended Member of a Legislative House, pursuant to section 14 (2) of this Bill, shall not enter or remain within the chamber or its precincts while the suspension remains in force.

Committee's Recommendation:
That the provision in Clause 15 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 15 *do stand part of the Bill, put and agreed to.*

Clause 16: Restriction on evidence as to certain matters.

No evidence relating to any of the following matters, that is to say —

(*a*) debates or other proceedings in a Legislative House;

(*b*) the contents of the minutes of evidence taken or any documents laid before a Committee of a Legislative House or any proceedings or examinations held before any such Committee, by any Member or officer of the House or any shorthand-writer employed to take minutes of any such evidence or proceedings or, in respect of any of the matters specified in paragraph (*b*) of this section, by any person who was a witness before the Committee shall be admissible in any proceedings before a court or person authorised by law to take evidence unless the court or such last-mentioned person is satisfied that permission has been given by the President or Speaker, as the case may be, of the House or the Chairman of the Committee(as the case may require) for such evidence to be given.

Committee's Recommendation:
That the provision in Clause 16 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 16 *do stand part of the Bill, put and agreed to.*

Clause 17: **Prohibition of certain statements.**
A person who publishes any —

(*a*) statement which falsely or scandalously defames a Legislative House or any Committee;

(*b*) writing reflecting on the character of the President or, Speaker, or Chairman of a Committee of a Legislative House in the conduct of his duty; or

(*c*) writing containing a gross, willful or scandalous misrepresentation of the proceedings of the Legislative House,

commits an offence and shall be liable on conviction to a fine of ₦2,000,000.00 or 12 months imprisonment or both.

Committee's Recommendation:
That the provision in Clause 17 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 17 *do stand part of the Bill, put and agreed to.*

Clause 18: **Printing false copies of laws or proceedings.**
A person who falsely prints or cause to be printed a copy of any Act, Law, Committee report, or votes and proceedings of a Legislative House as purporting to have been printed by the approved printer or by the authority of the Legislative House, commits an offence and shall be liable on conviction to a fine of ₦2,000,000.00 or 12 months imprisonment or both.

Committee's Recommendation:
That the provision in Clause 18 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 18 *do stand part of the Bill, put and agreed to.*

Clause 19: **Protection of persons responsible for publications authorised by a Legislative House.**

(1) Any person, being a defendant in any civil or criminal proceedings instituted for or on account of or in respect of the publication by such person or by his servant, by order or under the authority of a Legislative

House any reports, papers, minutes, votes or proceedings, may, on giving to the plaintiff or prosecutor, as the case may be, twenty-four hours' written notice of his intention, bring —

(*a*) before the court in which such civil or criminal proceedings are being held a certificate under the hand of the President or Speaker of a Legislative House stating that the reports, papers, minutes, votes or proceedings in respect of which such Civil or Criminal proceedings have been instituted were published by such person or his servant by order or under the authority of a Legislative House;

(*b*) an affidavit verifying such certificate.

(2) The court shall thereupon immediately stay such or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

Committee's Recommendation:
That the provision in Clause 19 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 19 *do stand part of the Bill, put and agreed to.*

Clause 20: Powers of President, Speaker or Chairman to be supplementary to powers otherwise conferred.
The powers of the President, Speaker or Chairman, as the case may be, of a Legislative House or a Committee of a Legislative House conferred by this Bill shall be supplementary to any powers conferred on him by the constitution, or by Standing Orders.

Committee's Recommendation:
That the provision in Clause 20 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 20 *do stand part of the Bill, put and agreed to.*

Clause 21: Pre-action notice.
A person who has cause of action against a Legislative House shall serve 3 months written notice to the office of the Clerk of the Legislative House disclosing the cause of action and relief sought.

Committee's Recommendation:
That the provision in Clause 21 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 21 *do stand part of the Bill, put and agreed to.*

Clause 22: Notification of arrest of Members of Legislative House.
Where a Member of a Legislative House is arrested or detained upon warrant or order of court or sentenced by court, the court shall, immediately, notify the President or Speaker of the Legislative House.

Committee's Recommendation:
That the provision in Clause 22 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 22 *do stand part of the Bill, put and agreed to.*

Clause 23: **Civil process not to be served in Chamber or Precincts.**
Notwithstanding the provision of any law —

(*a*) Court processes or orders shall not be served or executed in the chamber or precincts of a Legislative House; and

(*b*) a Member of a Legislative House shall not be arrested in the chamber or precincts of a Legislative House.

Committee's Recommendation:
That the provision in Clause 23 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 23 *do stand part of the Bill, put and agreed to.*

Clause 24: **Repeal.**
The Legislative Houses (Powers and Privileges) Act, Cap. L12, LFN, 2004 is repealed.

Committee's Recommendation:
That the provision in Clause 24 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 24 *do stand part of the Bill, put and agreed to.*

Clause 25: **Interpretation.**
In this Bill —

"Chamber" means where the members of the Legislative House sits.

Question: That the word " Chamber" defined in the Interpretation to this Act, put and agreed to.

"Committee" means the committee set up by the leadership of a Legislative House.

Question: That the word " Committee" defined in the Interpretation to this Act, put and agreed to.

"issuing authority" means the authority responsible for issuing summons or warrant of arrest.

Question: That the words " issuing authority" defined in the Interpretation to this Act, put and agreed to.

"Legislative House" means the National and States Houses of Assembly.

Question: That the words " Legislative House" defined in the Interpretation to this Act, put and agreed to.

"officer" include staff of the Legislative House.

Question: That the word " officer" defined in the Interpretation to this Act, put and agreed to.

"precincts" means the offices of the Legislative House and its premises.

Question: That the word " precincts" defined in the Interpretation to this Act, put and agreed to.

"President" means head of members of the Senate of the National Assembly.

Question: That the word " President" defined in the Interpretation to this Act, put and agreed to.

"Speaker" means the head of House of representatives of the National Assembly and States Houses of Assembly.

Question: That the word " Speaker" defined in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:
That the provision in Clause 25 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 25 *do stand part of the Bill, put and agreed to.*

Clause 26: **Citation.**
This Bill may be cited as the Legislative House (Powers and Privileges) Bill, 2017.

Committee's Recommendation:
That the provision in Clause 26 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 26 *do stand part of the Bill, put and agreed to.*

SCHEDULES

FIRST SCHEDULE

FORMS OF SUMMONS AND WARRANT OF ARREST

(*Clauses* 2 *and* 3)

FORM NO.1

SUMMONS

Summons No: ....

In The Legislative House of :...

You are Summoned to appear before the ....
(*State the Legislative House*) for the following reason:
....
....
....
(*List reason for Summons; e.g. information or complaint, render evidence*)

You are Ordered to Report on ...., 20......., at .... a.m./p.m.

Located at: ....
....

If you Fail to Appear as Ordered, A Warrant may be Issued for Your Arrest.

Date:............................ ....
Issuing Authority

CERTIFICATE OF PERSONAL SERVICE

I swear that I personally served this summons as follows:

Date Received: .... Date Served: .... Time Served:.............

Person Served: ....

Location where served: ....

....
Person Serving summons

CERTIFICATE OF SERVICE BY MAILING

I certify that a copy of this document was sent to ....

Through .... (*State the name of the courier*).

Date:.............................. ....
Person Serving Summons

Question that the provisions of the First Schedule stand part of the Bill — Agreed to.

SECOND SCHEDULE

(*Clause* 4)

FORM NO.2

WARRANT OF ARREST

To: .... (*Arresting Officer*)

Complaint has been made on ...., 20......., that ....
.... (*defendant*) on ...., 20........... did
....
....
....

And the defendant was summoned to appear before the ....
....

Legislative House) sitting at .... on ...., 20 ...., at ....
a.m./p.m. to answer to the summons.

The defendant was duly served with the summons, but failed to appear.

You are commanded to arrest and bring the defendant before the ....
(*State the Legislative House*) sitting at ....
....
to answer the said complaint.

Date: ....
Arresting Officer

Question that the provisions of the Second Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Repeal the Legislative Houses (Powers and Privileges) Act, Cap. L12, Laws of the Federation of Nigeria, 2004 and Re-enact the Legislative Powers and Privileges Act, 2014 in order to give the Legislature the desired Powers and Immunity to be able to carry out its Legislative Responsibility; and for Other Related Matters Concern Therewith, 2017 and approved as follows:

Clauses 1- 26	—	As Recommended
Schedules 1&2	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

16. **Anti-Torture Bill, 2017 (HB. 120) - Concurrence:**
Motion made: That a Bill for an Act to Penalize the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, Prescribing Penalties Thereof; and for Other Connected Purposes, 2017 be read the Second Time (*Senate Leader).*

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Penalize the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, Prescribing Penalties Thereof; and for Other Connected Purposes, 2017 (*Concurrence*) (*Senate Leader).*

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO PENALIZE THE COMMISSION OF ACTS OF TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENTS, PRESCRIBING PENALTIES THEREOF; AND FOR OTHER CONNECTED PURPOSES, 2017.

Clause 1: **Policy.**
It is hereby declared the policy of the State shall be —
(*a*) to ensure that the rights of all persons, including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody of any person in authority shall be subjected to physical harm, force, violence, threat or intimidation or any act that impairs his free will; and

(*b*) to fully adhere to the principles and standards on the absolute condemnation and prohibition of torture set by the 1999 Constitution of the Federal Republic of Nigeria and various international instruments to which Nigeria is a State party.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: Torture when committed.

(1) Torture shall be deemed committed when an act by which Sever pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession; punishing him for an act he or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or any third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or within the consent or acquiescence of a public official or other person acting in an official capacity provided that it does not include pain or suffering arising only from inherent or incidental to lawful sanctions.

(2) For the purposes of this Bill , torture shall include, but not limited to, the following:

(*a*) physical torture, which shall be understood as referring to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction or one or more parts of the body, such as:

(*i*) systematic beatings, head- bangings, punching, kicking, striking with rifle butts and jumping on the stomach;

(*ii*) food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten;

(*iii*) electricity shocks;

(*iv*) cigarette burning, burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wounds;

(*v*) the submersion of the head in water or water polluted with excrement, urine, vomit and/ or blood until the brink of suffocation;

(*vi*) being tied or forced to assume fixed and stressful bodily positions;

(*vii*) rape and sexual abuse, including the insertion of foreign bodies into the sex organs or rectum or electrical torture of the genitals;

(*viii*) other forms of sexual abuse;

(*ix*) mutilation, such as amputation of the essential parts of the body such as the genitalia ,ears, tongue, etc.;

(*x*) dental torture or the forced extraction of the teeth;

(*xi*) harmful exposure to the elements such as sunlight and extreme cold;

(*xii*) the use of plastic bags and other materials placed over the head to the point of asphyxiation;

(*xiii*) the use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:

(*a*) administration of drugs to induce confession and/or reduce mental competency; or

(*b*) the use of drugs to induce extreme pain or certain symptoms of disease; or

(*xiv*) other forms of aggravated and deliberate cruel, inhuman or degrading physical and/or pharmacological treatment or punishment; and

(*b*) mental/psychological torture, which shall be understood as referring to such cruel, inhuman or degrading treatment calculated to affect or confuse the mind and/ or undermine a person's dignity and morale, such as:

(*i*) blindfolding;

(*ii*) threatening a person or such persons related or known to him/ her with bodily harm, execution or other wrongful acts;

(*iii*) confinement in solitary cells put up in public places;

(*iv*) confinement in solitary cells against their will or without prejudice to their security;

(*v*) prolonged interrogation so as to deny normal length of sleep and/or rest;

(*vi*) causing unscheduled transfer(s) of a person from one place to another, creating the belief that he shall be summarily executed;

(*vii*) maltreating a member of the person(s) family;

(*viii*) causing the torture sessions to be witnessed by the person/s' family, relatives or any third party;

(*ix*) including generalized fear among certain sections of the population;

(*x*) denial of sleep /rest;

(*xi*) shame infliction such as stripping the person /snaked, parading them in public places, shaving their heads or putting marks on their bodies against their will;

(*xii*) confinement in jails and prisons under intolerable subhuman conditions; ordegrading mental treatment or punishment.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **No justification.**

(1) No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency, may be invoked as a justification for torture.

(2) Secret detention places, solitary, incommunicado or other similar forms of detention, where torture may be carried on with impunity, are hereby prohibited.

(3) Any confession, admission or statement obtained as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that said confession, admission or statement was made.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

Clause 4: **Right of complain.**

(1) Any individual who alleges that he has been subjected to torture shall have the right to complain to and to have his case promptly and impartially examined by any competent authorities.

(2) Steps shall be taken to ensure that the complainant is protected against all ill treatment or intimidation as a consequence of his complaint or any given evidence.

Committee's Recommendation:
That the provision in Clause 4 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 4 *do stand part of the Bill, put and agreed to.*

Clause 5: **Assistance in filing complaint.**

A party who suffered torture and other cruel, inhuman and degrading treatment or punishment, or any interested party on their behalf, may seek legal assistance in the proper handling and filing of the complaint from the Human Rights Commission, as well as from non-governmental organizations.

Committee's Recommendation:
That the provision in Clause 5 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 5 *do stand part of the Bill, put and agreed to.*

Clause 6: Right to Examination.

(1) Every person arrested, detained or under custodial investigation shall have the right to be informed of his right to demand a physical and psychological examination by an independent and competent Doctor of his own choice after interrogation, which shall be conducted outside the influence of the police or security forces.

(2) The medical report shall include in detail the history and the findings of the physical and psychological examination and shall be attached to the custodial investigation report; otherwise, such investigation report shall be deemed null and void and of no effect whatsoever.

(3) The medical reports shall, among others, include the following:

(*a*) the name, age and address of the patient;

(*b*) the name address of the next of kin of the patient;

(*c*) the name and address of the person who brought the patient for Physical and psychological examination;

(*d*) the nature and probable cause of the patient's injuries and trauma;

(*e*) the approximate time and date when the injury and/or trauma was sustained;

(*f*) the place where the injury and / or trauma was sustained;

(*g*) the time, date and nature of treatment necessary;

(*h*) the diagnosis , the prognosis and /or disposition of the patient; and

(*i*) any person who does not wish to avail of the rights under this provision may knowingly and voluntarily waive such rights in writing..

Committee's Recommendation:
That the provision in Clause 6 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 6 *do stand part of the Bill, put and agreed to.*

Clause 7: Liability.

(1) Any person who actually participated in the infliction of torture or who is present during the commission of the said act shall be liable as principal.

(2) Any superior military, police or law enforcement officer or Senior government official who issued an order to lower ranking personnel to torture a victim for whatever purpose shall be held equally liable as Principals.

(3) An order from a superior officer or from a superior in the office or public authority shall not be invoked as a justification of torture.

(4) The immediate commanding officer of the unit concerned of the security or law enforcement agencies shall be held liable as accessory to the crime for any act or omission or negligence on his part that may have led to the commission of torture by his/her subordinates.

Committee's Recommendation:
That the provision in Clause 7 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 7 *do stand part of the Bill, put and agreed to.*

Clause 8: **Penalties.**

(1) Any person who commits the offence of torture as defined in Section 4 of Bill is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding Twenty Five (25) years.

(2) Torture resulting in the loss of life of any person shall be considered as murder and shall be triable and punishable under the relevant laws.

(3) The above penalties shall be without prejudice to the prosecution of other crimes and other legal remedies available to the victim under other existing law(s) including the right to claim for compensation.

Committee's Recommendation:
That the provision in Clause 8 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 8 *do stand part of the Bill, put and agreed to.*

Clause 9: **Designation of organizational responsibility**
The Attorney General and Minister of Justice and other law enforcement and investigative agencies shall ensure that the function of overseeing the implementation of this Bill shall be specifically assigned to a particular office or unit of the agency concerned.

Committee's Recommendation:
That the provision in Clause 9 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 9 *do stand part of the Bill, put and agreed to.*

Clause 10: The Attorney General and Minister of Justice and such other concerned parties shall ensure that education and information regarding the prohibition against torture shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

Committee's Recommendation:
That the provision in Clause 10 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 10 *do stand part of the Bill, put and agreed to.*

Clause 11: **Regulations.**
The Attorney General and Minister of Justice shall with the approval of the President make rules and regulations for the effective implementation of this Bill.

Committee's Recommendation:
That the provision in Clause 11 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 11 *do stand part of the Bill, put and agreed to.*

Clause 12: **Repealing clause.**
All laws, or rules and regulations contrary to or inconsistent with the provisions of this Bill are hereby repealed or modified accordingly.

Committee's Recommendation:
That the provision in Clause 12 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 12 *do stand part of the Bill, put and agreed to.*

Clause 13: **Citation.**
This Bill may be cited as Anti-Torture Bill, 2017.

Committee's Recommendation:
That the provision in Clause 13 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 13 *do stand part of the Bill, put and agreed to.*

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Penalize the Commission of Acts of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishments, Prescribing Penalties Thereof; and for Other Connected Purposes, 2017 and approved as follows:

Clauses 1- 13 — As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

17. **Senior Citizens Center Bill, 2017 (HB. 121) - Concurrence:**
Motion made: That a Bill for an Act to Establish Senior Citizens Centres in the Country to Cater for the Needs of the Senior Citizens and for Other Matters Connected Therewith, 2017 be read the Second Time (*Senate Leader*).

Debate:

Question put and agreed to.

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

Motion made: Pursuant to Rule 81, that the Senate do resolve into the Committee of the Whole to consider a Bill for an Act to Establish Senior Citizens Centres in the Country to Cater for the Needs of the Senior Citizens and for Other Matters Connected Therewith, 2017 (*Concurrence*) (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO ESTABLISH SENIOR CITIZENS CENTRES IN THE COUNTRY TO CATER FOR THE NEEDS OF THE SENIOR CITIZENS AND FOR OTHER MATTERS CONNECTED THEREWITH, 2017.

PART I — DECLARATION OF POLICY, ESTABLISHMENT AND COMPOSITION, OF THE SENIOR CITIZENS CENTERS GOVERNING BOARD

Clause 1: **Declaration of Policy.**
In line with Section 16 (2) (*d*) of the 1999 Constitution it is hereby declared that it shall be State policy to provide adequate social services and an improved quality of life for the elderly.

Committee's Recommendation:
That the provision in Clause 1 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 2: **Establishment of the Senior Citizens Centre.**

(1) There is established a body to be known as the senior citizens center (in this Bill referred to as "the Center").

(2) The Center shall be a body corporate with perpetual succession; and may sue and be sued in its corporate name.

(3) The Headquarters of the Centre shall be located in Abuja, Federal Capital Territory.

(4) There shall be established a Senior Citizen Centre for the state that desires it.

Committee's Recommendation:
That the provision in Clause 2 be retained (*Senate Leader*) — *Agreed to.*

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

Clause 3: **Establishment of the Governing Board of the National Centre.**

(1) There is established for the management of the National Center, a governing board to be known as the senior citizens centers Board (in this Bill referred to as "the Board") which shall, subject to this Bill, have general control of the Centre

(2) The Board shall consist of —

(*a*) a Chairman;

(b) 10 other members; and

(c) the Director General of the Center.

(3) The Chairman and other members of the National Board shall —
(a) be appointed by the President ; and

(b) be persons with proven integrity.

(4) The supplementary provisions contained in the Schedule to this Bill shall have effect with respect to the proceedings of the Board.

Committee's Recommendation:
That the provision in Clause 3 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 3 *do stand part of the Bill, put and agreed to.*

Clause 4: Tenure of Office.

(1) The members of the Board appointed under section 3 (2) (*a*) and (*b*) of this Bill shall hold office for a period of 4 years in the first instance and may be eligible for reappointment for a further period of 4 years and no more.

(2) The members of the Board shall be paid such remuneration and allowances as the National Salaries Income and Wages Commission specify

(3) A member of the Board other than an *ex-officio* member may resign his appointment by a notice in writing under his hand, addressed to the Appointing authority.

Committee's Recommendation:
That the provision in Clause 4 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 4 *do stand part of the Bill, put and agreed to.*

Clause 5: Cessation of Membership.

(1) A member of the Board shall cease to hold office if —
(a) he becomes of unsound mind; or

(b) he becomes bankrupt or makes a compromise with his creditors; or

(c) he is convicted of a felony or of any offence involving dishonesty; or

(d) he is guilty of serious misconduct in relation to his duties.

(2) A member of the Board may be removed from office by the President, if, he is satisfied that it is not in the interest of the Center or the interest of the public that the member should continue in office.

(3) Where a vacancy occurs in the membership of the Board, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest and shall be appointed by the President.

Committee's Recommendation:
That the provision in Clause 5 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill, put and agreed to.

PART II — FUNCTIONS OF THE CENTRE

Clause 6: **Functions of the National Centre.**
The functions of the Centre shall be to:-

(*a*) to identify the needs, training, and opportunities of senior citizens in the country and be responsible for the provision of recreational, sports, educational, health and social programs and facilities designed for the full enjoyment and benefit of the senior citizens in the country as well as provide guidance and counseling for senior citizens;

(*b*) initiate, develop and implement productive activities and work schemes for senior citizens in order to provide income or otherwise supplement their earnings;

(*c*) promote and maintain linkages with state and local governments and other instrumentalities of government for the delivery of health care services, facilities, professional advice services, and training;

(*d*) keep records and statistics of senior citizens in the country as well as liaise with national, regional and international agencies involved in the provision of welfare and recreational activities for senior citizens;

(*e*) to exercise such other functions which are necessary to carry out the purpose for which the centers are established.

Committee's Recommendation:
That the provision in Clause 6 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 6 do stand part of the Bill, put and agreed to.

Clause 7: **Functions of the Board.**

(1) The National Board shall be responsible for —

(*a*) ensuring effective administration of the Centers in providing basic welfare, and recreational facilities to the senior citizens in Nigeria;

(*b*) maintaining buildings and facilities of the Center in good condition; and

(*c*) carrying out such other activities as are necessary for carrying out of the functions set out in this Bill.

(2) The Board shall also have power to carry out such activities as may appear to it to be necessary and incidental or conducive to the attainment of its objects under this Bill.

(3) The Board may, subject to such conditions as it may impose, delegate any of the powers conferred on it by this Bill (including power to appoint and exercise disciplinary control) to any of its committees or the Director General of the Center, as the case may be.

(4) Nothing in this Section shall preclude the Board from exercising any of the powers delegated pursuant to Subsection (3) of this of this section.

Committee's Recommendation:
That the provision in Clause 7 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 7 do stand part of the Bill, put and agreed to.

PART III — STAFF OF THE CENTRE

Clause 8: **Appointment of Director General.**

(1) There shall be appointed for the National Center, a Director General who shall be appointed by the President.

(2) The Director General shall be subject to the general control of the Board —

(*a*) be responsible for the implementation of the decisions of the Board and the day-to-day administration of the affairs of the Center;

(*b*) be responsible for keeping proper records of the proceedings of the Board; and

(*c*) be the head of the Board 's secretariat and be responsible for the administration thereof and the direction and control of all other employees of the Center with the approval of the Board.

(3) The Director General shall hold office for a period of four 4 years in the first instance and may be eligible for reappointment for a further period of Four 4 years and no more.

Committee's Recommendation:
That the provision in Clause 8 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 8 *do stand part of the Bill, put and agreed to.*

Clause 9: **The Secretary and other Staff of the Centre.**

(1) The Board shall appoint for the Centre an officer to be known as the Secretary to the Board who shall perform the functions of keeping the record of proceedings and decisions of the Board and such other functions as the Board may, from time to direct.

(2) The Board shall have power to appoint either on transfer or on secondment from any public service in the Federation, such number of employees as may, in the opinion of the Board, be required to assist the Center in the discharge of any of its functions under this Bill; and shall have power to pay to persons so employed such remuneration (including allowances) as the Board may, from time to time, determine.

(3) The terms and conditions of service (including terms and conditions as to remuneration, allowance, pensions, gratuities and other benefits) of the person employed by the Center shall be as determined by the Board from time to time.

Committee's Recommendation:
That the provision in Clause 9 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 9 *do stand part of the Bill, put and agreed to.*

Clause 10: Staff Regulations.

(1) The Board may, subject to the provisions of this Bill, make staff regulations relating generally to the conditions of service of the employees of the Center and without prejudice to the generality of the foregoing, such regulations may provide for —

(*a*) the appointment, promotion and disciplinary control (including dismissal) of employees of the Center; and

(*b*) appeals by such employees against dismissal or other disciplinary measures and until such regulations are made, any instrument relating to the conditions of service of officers in the Civil Service of the Federation shall be applicable, with such modifications as may be necessary, to the employees of the Center.

(2) Staff regulations made under subsection (1) of this section shall not have effect until approved by the President.

Committee's Recommendation:
That the provision in Clause 10 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 10 *do stand part of the Bill, put and agreed to.*

Clause 11: Pensions.

Service in the Center shall be public service for the purposes of the Pensions Reform Act and, accordingly, officers and other persons employed in the Center shall, in respect of their service in the Center, be entitled to pension, gratuities and other retirement benefits as are prescribed there under, so however that nothing in this Bill shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of that office.

Committee's Recommendation:
That the provision in Clause 11 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 11 *do stand part of the Bill, put and agreed to.*

PART IV — FINANCIAL PROVISIONS

Clause 12: Sources of Funding.

(1) There shall be paid and credited to the National Center —

(*a*) the take off grant for the Center;

(*b*) the annual subvention or allocation received from the Federal Government;

(*c*) such money as may, from time to time, be granted to the Center by the Government of the Federation, State or local government;

(*d*) all subventions, fees and charges for services rendered by the Center; and

(*e*) all other assets which may, from time to time, accrue to the Center.

(2) The Board may, from time to time, apply: the proceeds of the funds of the Center for the following purposes —

(*a*) the cost of administration of the Center and the Board;

(*b*) the payment of salaries, fees and other remuneration, allowances, pension and gratuities payable to members or employees of the Center or experts or professionals appointed by the Board.

Committee's Recommendation:
That the provision in Clause 12 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 12 *do stand part of the Bill, put and agreed to.*

Clause 13: **Submission of Estimate.**
The National Board shall not later than 31 October submit to the National Assembly through the President an estimate of its expenditure and income during the next succeeding year.

Committee's Recommendation:
That the provision in Clause 13 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 13 *do stand part of the Bill, put and agreed to.*

Clause 14: **Power to Accept Gifts.**

(1) The Board may accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organization making the gift.

(2) The Board shall not accept any gift if the condition attached by the person or organization making the gift are inconsistent with the objectives of the Center under this Bill.

Committee's Recommendation:
That the provision in Clause 14 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 14 *do stand part of the Bill, put and agreed to.*

Clause 15: **Exemption From Tax.**
The Board shall be exempted from the payment of income tax on any income accruing from investments made by the Board or otherwise.

Committee's Recommendation:
That the provision in Clause 15 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 15 *do stand part of the Bill, put and agreed to.*

Clause 16: Annual Estimates Account and Audit.

(1) The Board shall cause to be prepared not later than 30 September in each year an estimate of the expenditure and income of the Center during the next succeeding year and when prepared, they shall be submitted to the National Assembly.

(2) The Board shall cause to be kept proper accounts of the Centre and proper records in relation thereto and when certified by the Board, such accounts shall be audited by auditors appointed by the Board from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

Committee's Recommendation:
That the provision in Clause 16 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 16 *do stand part of the Bill, put and agreed to.*

Clause 17: Annual Report.

The National Board shall not later than three months before the end of each year submit to the Minister a report on the activities and the administration of the Board in relation to the Center during the immediately preceding year and shall include in such reports the auditor's report thereon.

Committee's Recommendation:
That the provision in Clause 17 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 17 *do stand part of the Bill, put and agreed to.*

PART V — SUPPLEMENTAL

Clause 18: Disqualification.

(1) A senior citizen who suffers from a contagious disease, or who is mentally unfit or unsound and whose behaviour is inimical to other senior citizens as determined by the Center on the basis of an appropriate certification by a qualified government or private volunteer physician, may be denied the benefits provided in the Center.

(2) The Center shall however refer the senior citizen concerned to the appropriate government agency for the needed medical care or attention.

Committee's Recommendation:
That the provision in Clause 18 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 18 *do stand part of the Bill, put and agreed to.*

Clause 19: Regulations.

The Board may make such regulations as are necessary or expedient for giving full effect to the provisions of this Bill.

Committee's Recommendation:
That the provision in Clause 19 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 19 *do stand part of the Bill, put and agreed to.*

Clause 20: **Interpretation.**

In this Bill, unless the context otherwise requires —

"Center" means the Senior Citizens Center established by Section 2 of this Bill and refers to the places established by this Bill with recreational, educational, health and social programs and facilities designed for the full enjoyment and benefit of the senior citizens in the country.

Question: That the word " Center" defined in the Interpretation to this Act, put and agreed to.

"Board " means the Senior Citizens Center Board for National and State levels established by Section 3 (1) (*a*) and (*b*) of this Bill.

Question: That the word " Board" defined in the Interpretation to this Act, put and agreed to.

"Senior Citizens" means anyone that is above the age of seventy (70).

Question: That the words " Senior Citizens" defined in the Interpretation to this Act, put and agreed to.

"Director General" means the Director General appointed under Section 7 of this Bill.

Question: That the words " Director General" defined in the Interpretation to this Act, put and agreed to.

"Minister" means the Minster charged with the responsibility for matters relating to Women and Social Development.

Question: That the word " Minister" defined in the Interpretation to this Act, put and agreed to.

"Secretary" means the Secretary to the State Senior Citizen centre Board.

Question: That the word " Secretary" defined in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:
That the provision in Clause 20 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 20 *do stand part of the Bill, put and agreed to.*

Clause 21: **Citation.**

This Bill may be cited as the Senior Citizens Center Bill, 2017.

Committee's Recommendation:
That the provision in Clause 21 be retained (*Senate Leader*) — *Agreed to.*

Question that Clause 21 *do stand part of the Bill, put and agreed to.*

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Proceedings of the Council

1. (1) Subject to this Bill and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its committees.

(2) The quorum of the National Board shall be the chairman and seven other members while the quorum of the State board shall be the Chairman and two other members and the quorum of any committee of the Board shall be determined by the Board.

2. (1) The Board shall meet not less than two times in each year and subject thereto, the Board shall meet whenever it is summoned by the Chairman; and if the Chairman is required to do so by notice given to him by not less than four other members, he shall summon a meeting of the Board, to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Board, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their members to preside at that meeting.

(3) Where the Board desires to obtain the advice of any person on a particular matter the Board may co-opt him to the Board for such period as it thinks fit; but a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

3. (1) The Board may appoint one or more committees to carry out, on behalf of the Board such of its functions as the Board may determine.

(2) A Committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Board) as may be determined by the Board; and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

4. (1) The fixing of the seal of the Center shall be authenticated by the signature of the Chairman or of any other person authorized generally or specially to act for that purpose by the Board.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Center by the chairman or any person generally or specially authorized to act for that purpose by the Board.

(3) Any document purporting to be a document duly executed under the seal of the Center shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

5. The validity of any proceeding of the Board or of a Committee thereof shall not be adversely affected by any vacancy in the membership of the Board or Committee, or by any defect in the appointment of a member of the Board or of a Committee, or by reason that a person not entitled to do so took part in the proceedings of the Board or Committees.

Question that the provisions of the Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered a Bill for an Act to Establish Senior Citizens Centres in the Country to Cater for the Needs of the Senior Citizens and for Other Matters Connected Therewith, 2017 and approved as follows:

Clauses 1- 21	—	As Recommended
Schedule	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time *(Senate Leader).*

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

18. **National Commission for Refugees Act, CAP N21 LFN 2004 (Repeal and Re-enactment) Bill, 2017 (SB.335).**

Consideration of Bill deferred to another Legislative Day.

19. **Foreign Service Commission (Establishment, etc.) Bill, 2017 (SB.422):**
Motion made: That a Bill for an Act to provide for the Establishment of the Foreign Service Commission charged with the responsibility of ensuring Excellence and Professionalism in conducting the Foreign Affairs of the Federal Republic of Nigeria and for Connected Matters,2017 be read the Second Time (*Senator Shehu Sani — Kaduna Central*).

Debate:

Further consideration of Bill deferred to another Legislative Day.

20. **Non-Governmental Organizations Regulation Bill, 2017 (SB.111):**

Consideration of Bill deferred to another Legislative Day.

21. **Federal Capital Territory Act CAP F6 LFN (Amendment) Bill, 2017 (SB. 115):**

Consideration of Bill deferred to another Legislative Day.

22. **National Fertilizer Quality Control Bill, 2017 (SB. 338):**

Consideration of Bill deferred to another Legislative Day.

23. **Correction, Reformation and Reintegration Centre (Establishment, etc.) Bill, 2017 (SB.308):**

Consideration of Bill deferred to another Legislative Day.

24. **National Institute of Credit Administration (Establishment, etc.) Bill, 2017 (SB.153):**

Consideration of Bill deferred to another Legislative Day.

25. Personal Information Protection Bill, 2017 (SB.310):

Consideration of Bill deferred to another Legislative Day.

26. Dormant Accounts Fund Management Board (Establishment, etc.) Bill, 2017 (SB.381):

Consideration of Bill deferred to another Legislative Day.

27. Nigerian Law Reform Act CAP N118 LFN 2004 (Amendment) Bill, 2017 (SB. 26):

Consideration of Bill deferred to another Legislative Day.

28. Adjournment:
Motion made: That the Senate do now adjourn till Tuesday, 18th July, 2017 at 10:00 a.m. (*Senate Leader*).

Adjourned accordingly at 12:20 *p.m.*

Ike Ekweremadu, CFR
Deputy Senate President,
Senate of the Federal Republic of Nigeria.