

INTERNATIONAL TRADE COMMISSION OF NIGERIA BILL, 2015

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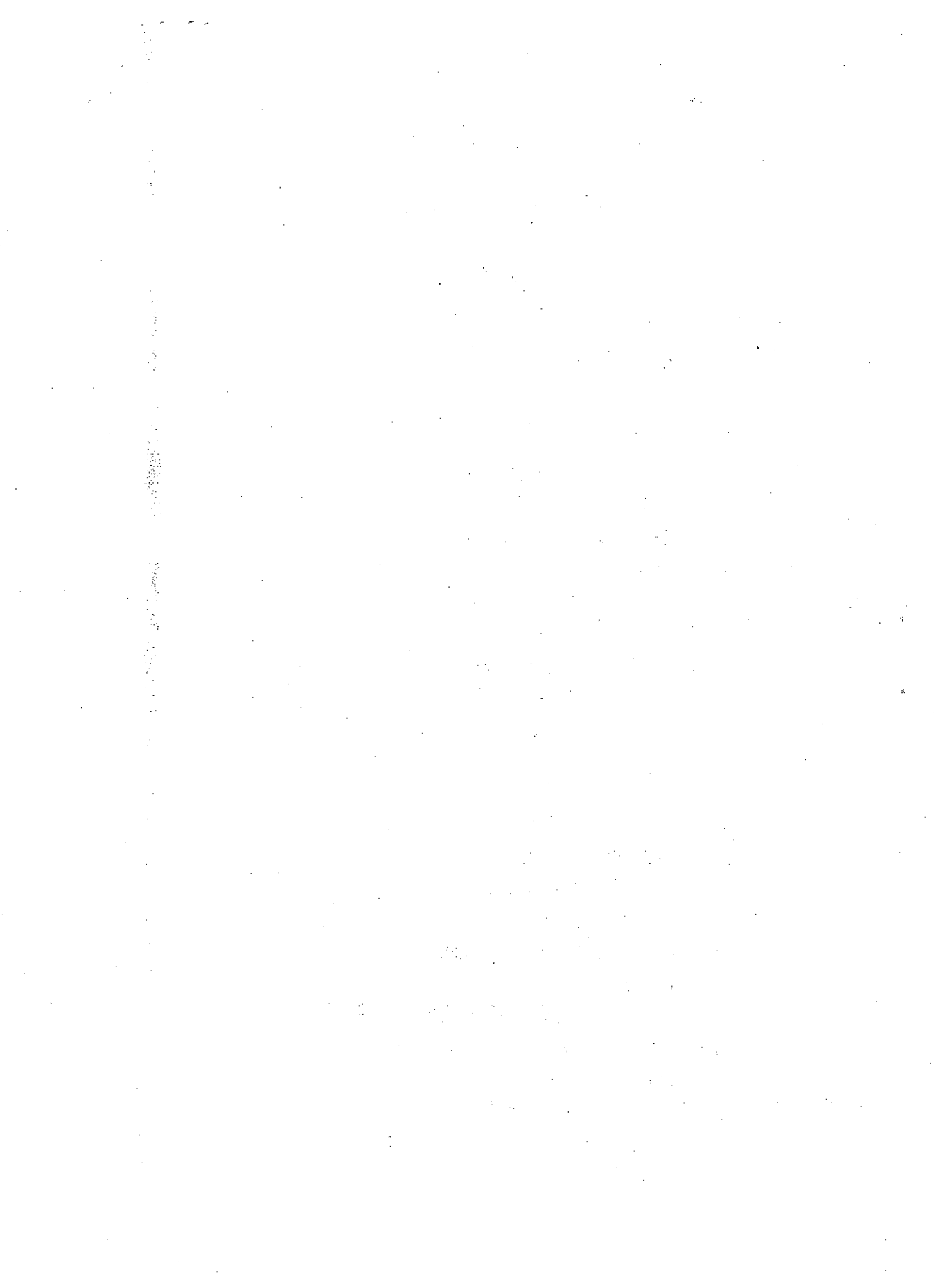
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A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE INTERNATIONAL
TRADE COMMISSION OF NIGERIA; AND FOR OTHER MATTERS

Sponsored by Hon. Uzoma Nkem-Abonta

[] Commencement

BE IT ENACTED by the National Assembly of the Federal
Republic of Nigeria as follows –

1 PART I – ESTABLISHMENT, ETC. OF THE INTERNATIONAL TRADE

2 COMMISSION OF NIGERIA

3 1.- (1) There is hereby established a body to be known as the Establishment of
4 International Trade Commission (in this Act referred to as “the the International
5 Commission”). Trade Commission
of Nigeria

6 (2) The Commission –

7 (a) shall be a body corporate with perpetual succession and a
8 common seal;

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

10 (c) may acquire, hold and dispose of property whether moveable or
11 immovable.

12 2.- (1) There is hereby established for the Commission, a Board (in Establishment
13 this Act referred to as “the Board”). and membership
of the Board

14 (2) The Board shall consist of –

15 (a) a Chairman;

16 (b) a representative each of –

17 (i) the Federal Ministry of Commerce,

18 (ii) the Federal Ministry of Industry,

19 (iii) the Federal Ministry of Finance,

20 (iv) the Federal Ministry of Agriculture and Rural Development,

21 (v) the Standards Organisation of Nigeria,

- 1 (vi) the National Agency for Food and Drug Administration and
2 Control,
3 (vii) the Nigerian Customs Service,
4 (viii) the Nigerian Immigration Securities;
5 (c) three persons who shall have the requisite qualifications and
6 experience in economics and law and specializing in international trade;
7 (d) one person to represent the academia;
8 (e) one person to represent civil society in Nigeria;
9 (f) the Director-General of the Commission.

10 (3) The Chairman and members of the Commission other than the
11 Director-General shall serve on part-time basis.

12 (4) The Chairman and members of the Board shall each be –

13 (a) appointed by the President on the recommendation of the
14 Minister;

15 (b) a person of proven integrity.

16 (5) The supplementary provisions set out in the Schedule to this Act
17 shall have effect with respect to the proceedings of the Board and the other
18 matters contained therein.

Tenure of office

19 3.-(1) The Chairman and members of the Board other than the ex-
20 officio members shall each hold office –

21 (a) for a term of 4 years in the first instance and may be re-appointed
22 for a further term of 4 years and no more; and

23 (b) on such terms and conditions as may be specified in his letter of
24 appointment.

Cessation of
membership

25 4. Notwithstanding the provisions of section 3 of this Act, a member
26 of the Board shall cease to hold office as a member of the Board if –

27 (a) he resigns his appointment as a member of the Board by notice,
28 under his hand, addressed to the President;

29 (b) he becomes of unsound mind;

30 (c) he becomes bankrupt or makes a compromise with his creditor; or

1 (d) he is convicted of a felony or of any offence involving
2 dishonesty or corruption;

3 (e) he becomes incapable of carrying on the functions of this office
4 either arising from infirmity of mind or body; or

5 (f) the President is satisfied that it is in the interest of the
6 Commission or in the interest of the public for the person to discontinue in
7 office and the President removes him from office.

8 5. The Chairman and members of the Board shall be paid such
9 emoluments, allowances and benefits as the Federal Government may, from
10 time to time, approve.

Emoluments, etc.
of members

11 6. The Board shall—

Functions of the
Board

12 (a) approve policies, strategies and procedures to be adopted by the
13 Commission for the achievement of its objectives;

14 (b) review, from time to time, the economic and trade impact of
15 external trade strategies on the Nigerian economy and make
16 recommendations to the Federal Government through the Minister;

17 (c) appoint, as and when necessary, technical committees
18 comprised of persons with requisite technical competence from the private
19 or public sector of the Nigerian economy to advise the Commission on such
20 matters as may be determined by the Board;

21 (d) perform such other functions as may, from time to time, be
22 necessary to achieve the objectives of the Commission under this Act.

23 PART II – OBJECTIVES AND FUNCTIONS OF THE COMMISSION

24 7. The objectives of the Commission shall be to—

Objectives of the
Commission

25 (a) promote the efficiency, adaptability and sustainable
26 development of the Nigerian economy through international trade;

27 (b) protect Nigerian industries from unfair trade practices;

28 (c) ensure, from time to time, that the multi-lateral rule-based
29 international trading system is promoted in Nigeria and applied to Nigeria's
30 advantage

Functions of the Commission	1	8. The Commission shall have the responsibility for—
	2	(a) the administration of Nigeria's trade remedy laws in a fair and
	3	objective manner;
	4	(b) the provision of independent analysis, information and support on
	5	matters of tariffs, international trade and Nigeria's competitiveness to the
	6	President, through the Minister as well as the National Assembly;
	7	(c) the maintenance of the Harmonised Tariffs Schedule (HTS) of
	8	Nigeria;
	9	(d) the formulation of measures to create public awareness through
	10	seminars, workshops, studies and other activities;
Commencement	11	(e) making recommendations to the relevant ministries, extra-
	12	ministerial departments and agencies regarding relief for an industry seriously
	13	injured by increased imports;
	14	(g) giving and receiving advice from any regulatory authority on all
	15	matters relating to trade;
	16	(h) making, from time to time, recommendations to the Minister on
	17	the review of relevant policies, legislations and subsidiary legislations, and
	18	reporting to the Minister on matters concerning any provisions that permits
	19	unfair trading practices;
	20	(i) the performance of such other duties which in the opinion of the
	21	Commission are required for the effective performance of its functions under
	22	this Act.
Special powers of the Commission	23	9. The Commission shall have power to administer and implement
	24	the provisions of any law relating to—
	25	(a) dumping and subsidised imports;
	26	(b) intellectual property in international trade;
	27	(c) safeguards and countervailing;
	28	(d) other related matters.
Appointment of the Director-General	29	PART III – STAFF OF THE FUND
	30	10. -(1) There shall be for the Commission a Director-General, who

1 shall be appointed by the President on the recommendation of the Minister.

2 (2) The Director-General shall—

3 (a) have such qualifications and experience as are appropriate for a
4 person required to perform the functions of that office under this Act;

5 (b) hold office for a term of 4 years in the first instance and may be
6 re-appointed to another term of 4 years and no more;

7 (c) be responsible to the Commission for policy direction and the
8 day to day administration of the Commission;

9 11.-(1) The structure of the Commission shall include the following departments, that is—

Structure of the
Commission

10 (a) Trade Defence;

11 (b) Trade Diplomacy and Negotiations;

12 (c) Trade Justice;

13 (d) Legal Services;

14 (e) Administration;

15 (f) Finance and Supplies; and

16 (g) Research and Statistics.

17 (2) Notwithstanding the provisions of subsection (1) of this
18 section, the Commission shall with the approval of the Minister, have power
19 to establish such additional departments to assist in the performance of its
20 duties and functions under this Act.

21 (3) The Board shall appoint Directors to head each department
22 established pursuant to subsections (1) and (2) of this section and each
23 Director shall have the requisite qualification and experience of not less than
24 20 years as may be required for the effective implementation of the
25 functions of their respective departments and the Commission under this
26 Act.

27 12.-(1) The Commission may, with the approval of the Board,
28 appoint such other staff or employees as, in the opinion of the Commission,
29 may be expedient and necessary for the proper and efficient performance of
30

Appointment of
other staff of the
Commission

1 its functions under this Act.

2 (2) The terms and conditions of service (including remuneration,
3 allowances, benefits and pensions) of the employees of the Commission shall
4 be as determined by the National Salaries and Wages Commission.

5 (3) The Commission shall have power to appoint either on transfer or
6 on secondment from any public service in the Federation, such employees as
7 may, in the opinion of the Commission, be required to assist the Commission in
8 the discharge of any of its functions under this Act, and shall have the power to
9 pay to persons so employed such remuneration (including allowances) as the
10 Board may, after consultation with the National Salaries and Wages
11 Commission, determine.

Staff regulations

12 13.-(1) The Board may, subject to the provisions of this Act, and with
13 the approval of the Commission make regulations generally relating to the
14 conditions of service of the staff of the Fund and without prejudice to the
15 generality of the foregoing, such regulations may provide for –

16 (a) the appointment, promotion and discipline (including dismissal)
17 of staff;

18 (b) appeals by such staff against dismissal or other disciplinary
19 measures,

20 and until such regulations are made, any instrument relating to the conditions
21 of service of officers in the civil service of the Federation shall be applicable
22 with such modifications as may be necessary.

23 (2) Staff regulations made under subsection (1) of this section shall
24 not have effect until approved by the Minister and when so approved the Board
25 shall cause them to be brought to the notice of all affected persons in such
26 manner as it may, from time to time, determine.

Pensions
provisions

27 14. Service in the Commission shall be approved service for the
28 purposes of the Pensions Act.

Fund of the
Commission

29 PART IV – FINANCIAL PROVISIONS

30 15.-(1) The Commission shall establish and maintain a fund from

1 which shall be defrayed all expenditure incurred by the Commission.

2 (2) There shall be paid and credited to the Fund established
3 pursuant to subsection (1) of this section—

4 (a) the initial take-off grant from the Federal Government;

5 (b) annual budgetary subventions from the Federal Government;

6 (c) such moneys as may, from time to time, be granted to the
7 Commission;

8 (d) all fees, levies and charges statutorily chargeable by the
9 Commission for approvals, testings, licences, certifications or any services,
10 as may be provided for by the Commission in the exercise of its powers
11 under Part II of this Act;

12 (e) all sums of money accruing to the Commission by way of
13 grants-in-aid, gifts, testamentary dispositions and endowments and
14 contributions from any other sources whatsoever.

15 (3) The fund shall be managed in accordance with the rules made
16 by the Board and without prejudice to the generality of the power to make
17 rules under this subsection, the rules shall in particular contain provisions—

18 (a) specifying the manner in which the assets or the fund of the
19 Commission are to be held, and regulating the making of payments into and
20 out of the fund; and

21 (b) requiring the keeping of proper accounts and records for the
22 purpose of the fund in such form as may be specified in the rules.

23 16. The Commission shall apply the proceeds of the fund
24 established pursuant to section 15 of this Act to—

Expenditure of
the Commission

25 (a) the cost of administration of the Commission;

26 (b) the payment of salaries, fees and other remuneration,
27 allowances, pensions and gratuities payable to employees of the Board and
28 to experts or consultants appointed by the Commission;

29 (c) the payment for all consultancies, contracts, including
30 mobilization, fluctuations, variations, legal fees and costs of contract

1 administration;

2 (d) the payment for all purchases; and

3 (e) undertake such other activities as are connected with all or any of
4 the functions of the Commission under this Act.

Power to accept
gift

5 17.-(1) The Commission may accept gift of land, money or other
6 property upon such terms and conditions, if any, as may be specified by the
7 person or organization making the gift.

8 (2) The Commission shall not accept any gift if the conditions
9 attached by the person or organization making the gift are inconsistent with the
10 objectives of the Commission under this Act.

Annual estimates
and expenditure

11 18.-(1) The Board shall, not later than 30th of September in each year
12 submit to the Minister as estimate of the expenditure and income of the
13 Commission during the next succeeding year.

14 (2) The Board shall cause to be kept proper accounts of the
15 Commission in respect of each year and proper records in relation thereto and
16 shall cause the account to be audited not later than 6 months after the end of
17 each year by auditors appointed from the list and in accordance with the
18 guidelines supplied by the Auditor-General of the Federation.

Annual reports

19 19. The Board shall prepare and submit to the Minister not later than
20 30th July in each year, a report in such form as the Minister may direct on the
21 activities of the Commission during the immediate preceding year, and shall
22 include in the report a copy of the audited accounts of the Commission for that
23 year and the auditor's report thereon.

24 PART V – MISCELLANEOUS PROVISIONS

Limitation of
suit against the
Commission

25 20.-(1) Subject to the provisions of this Act, the provisions of the
26 Public Officers Protection Act shall apply in relation to any suit instituted
27 against any officer or employee of the Commission.

28 (2) Notwithstanding anything contained in any other enactment or
29 law, no suit shall lie or be instituted in any court against any member of the
30 Board, the Director-General or any other officer or employee of the

1 Commission fro any act done in pursuance or execution of this Act or any
2 other enactment or law, or of any public duty or authority in respect of any
3 alleged neglect or default in the execution of this Act or such enactment or
4 law, duty or authority unless –

5 (a) it is commenced within 3 months next after the act, neglect or
6 default complained of; or

7 (b) in the case of a continuation of damage or injury, within 6
8 months next after the cessation thereof.

9 (3) No suit shall be commenced against a member of the Board, the
10 Director-General, officer or employee of the Commission before the
11 expiration of a period on one month after written notice of intention to
12 commence the suit shall have been served upon the Commission by the
13 intending plaintiff or his agent.

14 (4) The notice referred to in subsection (3) of this section shall
15 clearly and explicitly state –

16 (a) the cause of action;

17 (b) the particulars of the claim;

18 (c) the name and place of abode of the intending plaintiff; and

19 (d) the relief which he claims.

20 **21.** A notice, summons or other documents required or authorised
21 to be served upon the Commission under the provisions of this Act or any
22 other law or enactment may be served by delivering it to the Director-
23 General or by sending it by registered post and addressed to the Director-
24 General at the principal office of the Commission.

Notices

25 **22.** The Minister may, on the recommendation of the Commission,
26 make regulations generally for the effective implementation and operation
27 of this Act, and in particular for –

Power to make
regulations

28 (a) trading standards and rules;

29 (b) penalties, fees, charges or levies and such other related matters;

30 (c) forms and returns required;

- 1 (d) time periods;
- 2 (e) information required and the method for obtaining such
- 3 information;
- 4 (f) access to confidential information; and
- 5 (g) procedures generally.

Interpretation

- 6 **23.** In this Act, unless the context otherwise requires –
- 7 “Board” means the Governing Board of the International Trade Commission of
- 8 Nigeria established under section 2 of this Act;
- 9 “Chairman” means the Chairman of the International Trade Commission of
- 10 Nigeria;
- 11 “Commission” means the International Trade Commission of Nigeria
- 12 established under section 1 of this Act;
- 13 “member” means a member of the Governing Board pursuant to section 2(1) of
- 14 this Act and includes the Chairman; and
- 15 “Minister” means the Minister charges with the responsibility for matters
- 16 relating to commerce.

Short title

- 17 **24.** This Bill may be cited as the International Trade Commission of
- 18 Nigeria (Establishment) Bill, 2015.

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SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the persons presiding at any meeting, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of its committees.

2. At every meeting of the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their number to preside at the meeting.

3. The quorum at a meeting of the Board shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule and four other members.

4. The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt such a person for such a period as it thinks fit, but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

6.-(1) Subject to its standing orders, the Board may appoint such number of standing and ad hoc committees as it thinks fit to consider and report on any matter within the Fund is concerned.

(2) A committee appointed under this paragraph shall—

(a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board), and a person, other than a

1 member of the Board, shall hold office on the committee in accordance with the
2 terms of his appointment; and

3 (b) be presided over by a member of the Board.

4 (3) The quorum of any committee set up by the Board shall be as may
5 be determined by the Board.

6 (4) A decision of a committee of the Board shall be of no effect until it
7 is confirmed by the Board.

8 *Miscellaneous*

9 7. The fixing of the seal of the Fund shall be authenticated by the
10 signature of the Chairman or any other person generally or specifically
11 authorised by the Board to act for that purpose.

12 8. Any contract or instrument which, if made by a person not being a
13 body corporate, would not be required to be under seal may be made or
14 executed on behalf of the Fund by the Chairman or by any other person
15 generally or specifically authorised by the Board to act for that purpose.

16 9. Any document purporting to be a contract, instrument or other
17 document duly signed or sealed on behalf of the Fund shall be received in
18 evidence and shall, unless the contrary is proved, be presumed without further
19 proof to have been so signed or sealed.

20 10. The validity of any proceedings of the Board or of any of its
21 committees shall not be affected by—

22 (a) any vacancy in the membership of the Board, or committee, or

23 (b) any defect in the appointment of a member of the Board or
24 committee; or

25 (c) reason that any person not entitled to do so took part in the
26 proceedings of the Board or committee.

27 11. A member of a committee who has a personal interest in any
28 contract or arrangement entered into or proposed to be considered by the
29 committee shall disclose his interest to the committee and shall not vote on any
30 question relating to the contract or arrangement.

1 12. No member of the Board shall be personally liable for any act
2 or omission done or made in good faith while engaged on the business of the
3 Fund.

4 13. The members of the Board shall subscribe to and be bound by a
5 code of ethics to be approved by the Commission.

EXPLANATORY MEMORANDUM

The Bill seeks to provide for the establishment of the International Trade Commission of Nigeria for the purposes of co-ordinating policies, interests and issues related to international trade for the Federal Republic of Nigeria.

