

PETROLEUM INDUSTRY BILL, 2016
ARRANGEMENT OF SECTIONS

Section

PART 1 - FUNDAMENTAL OBJECTIVES

1. Objectives
2. Vesting of ownership of Petroleum
3. Management of Petroleum Resources
4. Transparency and good governance

PART 2 - THE MINISTER

5. Functions and Powers of the Minister.
6. Incorporation of the Nigeria Petroleum Assets Management Company and National Oil Company
7. Rights of Pre-emption

PART 3 - THE OIL AND GAS DIRECTORATE

8. Establishment of the Oil and Gas Directorate
9. Functions of the Directorate
10. Governing Board
11. Director General
12. Appointment of Secretary
13. Tenure, remuneration and conditions of service
14. Directors. Error! Bookmark not defined
15. Disqualification
16. Resignation of Director-General
17. Removal of Director-General
18. Other Staff of the Directorate
19. Tenure, remuneration and conditions of service
20. Pensions
21. Financial provisions
22. Funding
24. Power to accept gifts
25. Borrowing powers
25. Accounts and audits
26. Annual reports

27. Exemption from income tax
 28. Notice
 29. Service of notice
- PART 4 - THE NIGERIAN PETROLEUM COMMISSION
30. Establishment of the Nigerian Petroleum Commission
 31. Objectives of the Commission
 32. Functions of the Commission
 33. Collaboration and consultation with other Agencies
 34. Responsibility for the Environment
 35. Powers of the Commission
 36. Regulations
 37. Decisions and Orders made by the Inspectorate
 38. Commission to Give Notice to interested parties
 39. Engagement of Expertise support
 40. Question of law to be referred to the Federal High Court.
 41. Governing Board of the Commission
 42. Functions of the Governing Board
 43. Remuneration and allowances of members of the Board
 44. Disqualification and Cessation of Appointment
 45. Resignation of non executive members of the Board
 46. Vacancy
 47. The Chief Executive Director and Executive Directors
 48. Appointment, tenure, remuneration and conditions of service of the Chief Executive
 49. Disqualification
 50. Other Staff
 51. Pension
 52. Financial Provisions
 53. Funding
 54. Powers to accept grants
 55. Account and audit
 56. Mid-year and annual reports
 57. Exemption from Income Tax

58. Limitation of suits against the Commission
 59. Service of Court process on the Commission
 60. Restriction on execution against the Commission's property
 61. Special Investigation units
 62. Indemnity of Board members and employees
- PART 5 - DIRECTION ON INCORPORATION OF NATIONAL OIL COMPANY
63. Exclusion of the Fiscal Responsibility Act and Public Procurement Act to the National Oil Company
 64. Initial funding of the National Oil Company
 65. Assessment and offset of liabilities of the National Oil Company
 66. Retention of revenue and dividend policy
 67. Transfer of employees, assets and liabilities
 68. Conclusive evidence
 69. Release from liability or obligation
 70. Transfer not deemed to constitute a breach of contract
 71. Guarantee or surety
 72. Provision of records etc. to the National Oil Company
 73. Further order amending a transfer order
 74. Directions to NNPC on matters related to transit ion
 75. Transfer of employees to the National Oil Company
 76. Delisting of Assets
 77. Composition and Appointment of the Board
 78. Management and governance of the National Oil Company
 79. Terms of office of members of the Board
 80. Matters reserved for the Shareholders
 81. Publication of annual report and annual account of the National Oil Company
 82. Certain exemption from rates
 83. Protection of National Oil Company's land
- PART 6 - DIRECTION ON INCORPORATION OF ASSETS MANAGEMENT COMPANY
84. Date of Transfer of Assets to be published in the Gazette
 85. Business or objects of the Management Company

86. Engagement of technical support
87. Transfer of employees, assets and liabilities
88. Conclusive evidence
89. Release from liability or obligation
90. Enforcement or continuation of any cause of action or proceedings
91. Transfer not deemed to constitute a breach of contract
92. Guarantee or surety
93. Dividend policy
94. Funding
95. Provision of records etc. to the Management Company
96. Further order amending a Transfer Order
97. Directions to the NNPC on matters related to transition
98. Transfer of employees to the Management Company and conditions of service of transferred employees
99. Exemption from stamp duty and other charges
100. Certain exemption from rates
101. Composition and appointment of the Board
102. Terms of office of members of the Board
103. Management and governance of the Management Company
104. Matters reserved for the shareholders
105. Publication of annual report and annual accounts of the Management Company
106. Protection of land belonging to the Management Company

PART 7 - NIGERIA PETROLEUM RESEARCH CENTRE

107. The Establishment of the Nigeria Petroleum Research Centre
108. Functions of the Centre
109. Powers of the Centre
110. Supervisory Council,
111. Powers of the Supervisory Council
112. Director-General of the Centre
113. Tenure, Remuneration and Conditions of Service
114. Disqualification
115. Vacation of Office and Termination

116. Directors of the Centre
117. Other staff
118. Tenure, Remuneration and Conditions of Service
119. Provision of library facilities
120. Pensions
121. Financial Provisions of the Centre
122. Funds of the Centre
123. Power to accept gifts
124. Borrowing powers
125. Annual Budget
126. Account and Audit
127. Mid-year and Annual Reports
128. Restrictions on Legal Proceedings
129. Service of Documents
130. Indemnity of Supervisory Council and Employees

PART 8 - REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS

131. Repeals
 132. Saving provisions
 133. Transfer of staff, etc
 134. Cessation of employment
 135. Application of subsisting contracts
 136. Interpretation
 137. Short Title
- Schedules



A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE LEGAL AND REGULATORY FRAMEWORK, INSTITUTIONS AND REGULATORY AUTHORITIES AS WELL AS GUIDELINES FOR THE OPERATION OF THE UPSTREAM AND DOWNSTREAM SECTORS OF THE NIGERIAN PETROLEUM INDUSTRY

Sponsored by Hon. Victor O. Nwokolo

[] Commencement

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

PART 1 - FUNDAMENTAL OBJECTIVES

1. The objectives of this Act are to:

Objectives

- (a) enhance exploration and exploitation of petroleum resources in Nigeria and to promote petroleum production for the benefit of all Nigerians;
- (b) significantly increase domestic gas supplies for power generation and industrial development;
- (c) create a peaceful business environment for petroleum operations;
- (d) create a commercially viable National Oil Company;
- (e) deregulate petroleum product prices;
- (f) create efficient regulatory entities;
- (g) create transparency and openness through robust governance mechanism;
- (h) promote Nigerian Content;
- (i) Positively promote the realization of environmental and safety standards that will ensure the protection of human health.

2. The entire property and control of all petroleum in, under or

Vesting of Ownership of Petroleum

1 upon any lands within Nigeria, its territorial waters, the Continental Shelf and
2 the Exclusive Economic Zone is vested in the Government of the Federation.

Management
of Petroleum
Resources

3 3. The management and allocation of petroleum resources and their
4 derivatives in Nigeria shall be conducted strictly in accordance with the
5 principles of good governance, transparency and sustainable development of
6 Nigeria by providing for:

7 (a) an orderly, fair and competitive system;

8 (b) clear and effective administrative frameworks for organising
9 petroleum development activities; and

10 (c) a fiscal regime that offers fair returns while benefiting all
11 Nigerians.

Transparency
and good
governance

12 4. In achieving their functions and objectives under this Act, the
13 Institutions and the National Oil Company shall be guided by principles of the
14 Nigerian Extractive Industries Transparency Initiative Act of 2007.

15 PART 2 - THE MINISTER

Functions and
powers of the
Minister

16 5. -(1) The Minister in charge of petroleum resources shall:

17 (a) be responsible for the determination, formulation and monitoring
18 of Government policy for the petroleum industry;

19 (b) exercise general supervision over the affairs and operations of the
20 petroleum industry subject to the provisions of this Act;

21 (c) report developments in the petroleum industry to the Federal
22 Executive Council;

23 (d) advise the Government on all matters pertaining to the petroleum
24 industry;

25 (e) promote the development of local content in the Nigerian
26 petroleum industry;

27 (f) represent Nigeria at international organisations that are primarily
28 concerned with the petroleum industry operations;

29 (g) negotiate and execute international petroleum treaties and
30 agreements with other sovereign countries, international organizations and

1 other similar bodies on behalf of the Government;

2 (h) upon the written recommendation of the Commission, grant,
3 amend, renew, extend or revoke any licence or lease required for petroleum
4 exploration, exploitation or production pursuant to the provisions of this Act
5 or any other enactment; and

6 (i) do all such other things as are incidental to and necessary for the
7 performance of the functions of the Minister under this Act.

8 (2)The Minister may in writing delegate to any other person or
9 institution any power or function conferred on him by or under this Act.

10 6.-(1)The Minister shall, within six months after the Effective
11 Date, take such steps as are necessary under the Companies and Allied
12 Matters Act to incorporate two entities:

13 (a) the first may be called the Nigeria Petroleum Assets
14 Management Company, or such other name variable as may be available at
15 the Corporate Affairs Commission; and

16 (b) the other may be called the National Oil Company, or such other
17 name variable as may be available at the Corporate Affairs Commission; as
18 companies limited by shares, which shall be vested with certain assets and
19 liabilities of the Nigerian National Petroleum Corporation (NNPC).

20 (2) Upon incorporation and the transfer of assets pursuant to this
21 Act:

22 (a) the Nigeria Petroleum Assets Management Company
23 (hereinafter called the "Management Company" in this Act) shall be
24 responsible for the management of the assets detailed in the Fourth Schedule
25 to this Act;

26 (b)The National Oil Company shall operate the assets transferred
27 to it as a fully commercial entity.

28 (3)Where the Minister is satisfied that the incorporation of other
29 entities to assume and manage some of the assets and liabilities of the NNPC
30 is expedient, the Minister shall cause such request to the National Assembly,

Incorporation of
the Nigeria
Petroleum Assets
Management
Company and the
National Oil
Company

1 specifying the name of the proposed entity, the assets and liabilities of the
2 NNPC that will be vested in the entity and such other information that are
3 material for the consideration of the request

4 (4) The provisions of this section 6(4) shall apply to any other
5 successor entities created by the Minister pursuant to section 6(3) above:

6 (a) The initial shares or other ownership interest of such other entities
7 shall be held in the ratio of 51 % by the Ministry of Finance Incorporated and
8 49% by the Bureau of Public Enterprises on behalf of the Government;

9 (b) The entities shall be governed and managed on the basis of the
10 provisions of the Companies and Allied Matters Act and the Securities and
11 Exchange Commission's Codes of Corporate Governance;

12 (c) The annual reports and annual accounts submitted to the annual
13 general meeting of the company shall be published on the entity's website and
14 at least 3 widely circulating National Newspapers;

15 (d) The Minister shall cause the Articles of Association of such other
16 entities to provide for the composition and appointment of the Board of the
17 entity on terms similar to the composition and appointment of the Board of the
18 Management Company with such modifications as may be necessary or
19 desirable.

20 (5) The Minister shall ascertain outstanding liabilities, including the
21 amounts of cash call arrears and shall within 12 months of the Effective Date
22 layout a plan for the settlement of the liabilities.

23 (6) The Minister shall within 6 months of the Effective Date, put in
24 place a clear plan and timeline for transiting into the new entities to prevent
25 disruption of industry operations.

26 7.-(1) In the event of a state of national emergency as specified in the
27 Constitution of the Federal Republic of Nigeria, 1999, the Minister shall have
28 the right of pre-emption of all petroleum and petroleum products obtained,
29 marketed or otherwise dealt with under any license or lease granted under this
30 Act or any other enactment for a maximum period of three months and

1 thereafter for another three months.

2 (2) The provisions of the First Schedule to this Act shall have effect
3 in relation to the rights referred to in subsection (1) of this section.

4 (3) Any person, who fails or neglects to comply with a requisition
5 made by or on behalf of the Minister under paragraphs 1, 2 or 7 of the First
6 Schedule to this Act, or fails to conform or to obey a direction issued by the
7 Minister under paragraph 8 of the First Schedule to this Act, commits an
8 offence and is liable on conviction to a fine not exceeding N10,000,000.00
9 or to imprisonment for a period not exceeding six months or both.

10 (4) Any person who obstructs or interferes with the Minister, his
11 servants or agents in the exercise of the powers conferred on the Minister
12 under paragraph 8 of the First Schedule to this Act, shall be guilty of an
13 offence and on conviction shall be liable to a fine not exceeding
14 N5,000,000.00 or to imprisonment for a period not exceeding six months or
15 to both.

16 (5) On the recommendation of the Commission, the Minister may
17 by regulation increase the financial penalties imposed under subsections 3
18 and 4 of this section as well as prescribe all matters which under this Act are
19 required and necessary to give effect to this Act, consistent with the
20 provisions of this Act.

21 PART 3 - THE OIL AND GAS DIRECTORATE

22 8.-(1) There is established by this Act the Oil and Gas Directorate
23 ("the Directorate") which shall be a body corporate with perpetual
24 succession and a common seal.

Establishment of
the Oil and Gas
Directorate

25 (2) The Directorate shall have power to acquire, hold and dispose
26 of property, sue and be sued in its own name.

27 (3) The Directorate shall function as the secretariat of the Minister
28 and shall take over any functions which were previously undertaken by the
29 Ministry of Petroleum Resources.

Functions of the
Directorate

30 9. The functions of the Directorate shall be to:

- 1 (a) formulate and develop strategies to implement Federal
2 Government petroleum policy and other related policies approved for the
3 petroleum industry by the Minister;
- 4 (b) provide policy advice to the Minister on matters relevant to the
5 petroleum industry;
- 6 (c) coordinate the budget of all Institutions set up under the provisions
7 of this Act;
- 8 (d) ensure that the government derives maximum benefit from all
9 petroleum operations for the economic benefit of the people of Nigeria;
- 10 (e) promote open and competitive processes for:
- 11 (i) the allocation of licenses or contracts for exploration and
12 production activities;
- 13 (ii) upstream and downstream petroleum quota allocations, for the
14 purpose of the optimizing of benefits to the people of Nigeria;
- 15 (f) formulate and promote policies and strategies to:
- 16 (i) stimulate investment and participation in all areas of the petroleum
17 industry;
- 18 (ii) promote the use of advanced technology in the petroleum
19 industry; and
- 20 (iii) assist relevant bodies in developing Nigerian content in the
21 industry;
- 22 (g) promote measures to increase the national reserves base;
- 23 (h) promote measures to increase productivity in all areas of the
24 petroleum industry;
- 25 (i) promote the use of locally available raw materials in preference to
26 previously imported materials, without at any time compromising quality,
27 safety and environmental standards in the petroleum industry;
- 28 (j) promote and ensure the use of Nigerian goods and services in all
29 sectors including insurance, finance, and professional services as a first resort,
30 without at any time compromising cost, quality and competence;

- 1 (k) ensure regular consultation with all stakeholders of the
2 Nigerian petroleum industry, including but not limited to:
- 3 (i) the petroleum exploration and producing companies;
4 (ii) all companies operating in all sectors of the downstream
5 petroleum industry;
6 (iii) federal, state and local governments;
7 (iv) Communities residing or conducting activities in areas where
8 petroleum exploration and production is being carried;
9 (v) non-governmental organisations directly involved with matters
10 pertaining to the petroleum industry; and
11 (vi) institutions and professional bodies relevant to the petroleum
12 industry;
- 13 (l) receive data from the Institutions and all entities operating in the
14 Nigerian petroleum industry for the purpose of formulating appropriate
15 policies for the benefit of the State;
- 16 (m) maintain economic, commercial and technical data relating to
17 all areas of the industry;
- 18 (n) relate with relevant international agencies, in accordance with
19 the directives of the Minister;
- 20 (o) promote peaceful development of all sectors of the petroleum
21 industry, in consultation with all stakeholders;
- 22 (p) promote compliance with all legislation by all participants and
23 stakeholders in the industry;
- 24 (q) initiate periodic reviews of existing regulations and policies in
25 the petroleum industry in consultation with all stakeholders and recommend
26 improvements thereto;
- 27 (r) initiate measures that promote appropriate and indigenous
28 technology for the petroleum industry in Nigeria; and
29 (s) perform such other functions as the President may from time to
30 time direct, in accordance with the provisions of this Act.

Governing
Board

1 **10.**-(1) There is established for the Directorate a Governing Board
2 ("the Board") which shall consist of:

- 3 (a) a chairman, who is the Minister;
4 (b) the Director- General of the Directorate;
5 (c) all full time 2 Directors of the Directorate;

6 (2) In addition, the Board shall have the following other members
7 who shall be part-time members, namely:

- 8 (a) the Group Managing Director of the National Oil Company;
9 (b) the Executive Secretary of the Nigeria Oil and Gas Industry
10 Content Monitoring Board;
11 (c) the Executive Director of the Nigerian Petroleum Regulatory
12 Commission; and

13 (d) four other members appointed on their own merit and who shall be
14 persons of recognized standing with a minimum of 15 years cognate
15 experience in the petroleum industry.

16 (3) The chairman and all part-time members of the Board of the
17 Directorate shall be appointed by the President;

18 (4) The proceedings of the Board of the Directorate and other
19 ancillary matters shall be regulated by the Second Schedule to this Act.

20 (5) Subject to subsection (2) of this section, the Board may make
21 standing orders for the regulation of its proceedings at meetings.

Director-General

22 **11.**-(1) There shall be appointed by the President a Director-General
23 who shall be the chief accounting officer of the Directorate.

24 (2) The Director-General shall assist the Board in carrying out the
25 day-to-day activities of the Directorate and shall carry out such other duties as
26 may be directed from time to time by the Chairman.

27 (3) The Director-General shall have technical and professional
28 competence with a minimum of 20 years cognate experience in the petroleum
29 industry.

30 (4) The Director-General shall have the status of a permanent

1 secretary in the public service of the Federation.

2 12.-(1) There shall be appointed by the Directorate a Secretary to Appointment of
3 the Directorate who shall not be a member of the Board. Secretary

4 (2) The Secretary shall:

5 (a) take minutes of the meetings of the Board;

6 (b) keep the records of the Board;

7 (c) conduct the correspondence of the Board; and

8 (d) perform such other duties as the Chairman or Director-General
9 may from time to time direct.

10 (3) The Secretary shall be a lawyer with a minimum of 10 years post
11 qualification experience.

12 13.-(1) The non-executive members of the Board shall hold office Tenure,
13 for four years or such other terms and conditions as may be specified in their Remuneration
14 letters of appointment by the President. and Condition of
Service

15 (2) The Director-General shall hold office for four years in the first
16 instance and may be re-appointed for a further term of four years and no
17 more.

18 (3) Each full-time Director shall serve for an initial period of four
19 years renewable for another term of four years only on such terms and
20 conditions as may be specified in the letter of appointment.

21 (4) Any member of the Board of the Directorate may resign his
22 appointment at any time by notice in writing under his hand addressed to the
23 President through the Minister, being the Chairman of the Board.

24 (5) If a member of the Board of the Directorate dies or resigns or
25 otherwise vacates his office before the expiry of the term for which he is
26 appointed, the President shall appoint a fit and proper person in his place to
27 serve out the remainder of his term.

28 (6) The remuneration of the members of the Board of the
29 Directorate shall be at a level sufficient to attract qualified professionals
30 within the petroleum industry.

1 (7) The Directorate shall make regulations regarding conflict of
2 interest applicable to members of the Board as set out in the Second Schedule to
3 this Act.

Directors

4 14.-(1) There shall be appointed Directors who shall assist the
5 Director- General in managing and discharging the responsibilities of the
6 Directorate.

7 (2)The persons to be appointed Directors shall be suitably qualified
8 by having extensive technical and managerial knowledge of the petroleum
9 industry.

10 (3)The remuneration, tenure and conditions of service of the
11 Directors shall be set by the Board and shall be at a level sufficient to attract
12 qualified professionals within the petroleum industry.

Disqualification

13 15.-(1) No person shall be appointed a Director-General or Director
14 unless he or she:

15 (a) is a Nigerian citizen;

16 (b) has not:

17 (i) been adjudged or declared bankrupt or insolvent;

18 (ii) made an assignment to or arrangement or composition with his or
19 her creditors which has not been rescinded or set aside;

20 (iii) been declared to be of unsound mind;

21 (iv) been convicted of an offence involving fraud or dishonesty; or

22 (v) been disqualified by a competent authority from carrying out any
23 assignment, responsibility or function in his or her professional capacity.

24 (c) has not been disqualified by the Securities and Exchange
25 Commission from holding a board appointment in any public company.

Resignation of
Director-General

26 16.-(1) The Director-General may resign his office by giving three
27 months written notice thereof addressed to the President through the
28 Chairman.

29 (2) The office of the Director-General shall become vacant:

1 (a) three months after giving notice in writing to the President of
2 his resignation;

3 (b) if he becomes disqualified under the provisions of section 15 of
4 this Act; or

5 (c) on the expiration of his appointment.

6 17.-(1) The President shall require the Director-General to vacate
7 his office if he or she:

Removal of
Director-General

8 (a) is guilty of serious misconduct in relation to his duties as a
9 Director-General;

10 (b) has demonstrated inability to effectively perform the duties of
11 his office;

12 (c) is found to be in breach of section 15 of this Act after his
13 appointment; or

14 (d) is in breach of the conflict of interest rules set out in the Second
15 Schedule to this Act.

16 18.-(1) The Directorate shall have power to appoint such number
17 of other persons as it deems necessary as staff of the Directorate.

Other Staff of
the Directorate

18 (2) The employment of the staff of the Directorate, including the
19 Secretary, shall be subject to such terms and conditions as may from time to
20 time be stipulated by the Board and contained in the respective staff's
21 employment contract.

22 (3) Staff of the Directorate shall be public officers as defined in the
23 Constitution of the Federal Republic of Nigeria 1999.

24 (4) For the purpose of this section, appointment shall include
25 secondment, transfer and contract appointments

26 19.-(1) The tenure, remuneration, and conditions of service of staff
27 of the Directorate shall be as determined by the Directorate having regard to
28 the recommendation of the National Salaries Incomes And Wages
29 Commission.

Tenure,
Remuneration
and Condition
of Service

30 (2) While making recommendations, the National Salaries,

1 Incomes and Wages Commission shall have due regard to the following
2 principles:

- 3 (i) the specialised nature of work to be performed by the staff;
4 (ii) the need to ensure financial sufficiency of the Directorate; and
5 (3) The Directorate shall issue procedures guiding against conflict of
6 interest considerations, which shall apply to all Institutions and governing
7 boards.

Pension

8 **20.**-(1) Service in the Directorate shall be approved service for the
9 purpose of the Pensions Reform Act, and accordingly, officers and other
10 persons employed in the Directorate shall be entitled to pensions and other
11 benefits as are prescribed in the Pensions Reform Act.

12 (2) Subsection (1) of this section does not prohibit the Directorate
13 from appointing a person to any office on terms that preclude the grant of a
14 pension or other retirement benefits in respect of that office.

15 (3) In the application of the provisions of the Pensions Reform Act to
16 the Directorate, any power exercisable under that Act by a minister or other
17 authority of the Federal Government, other than the power to make regulations,
18 is hereby vested in and shall be exercisable by the Directorate and not by any
19 other person or authority.

Financial
Provision

20 **21.**-(1) The Directorate shall not later than 30th September or such
21 other date to be determined by the President in each financial year, prepare and
22 present to the National Assembly, a statement of estimated income and
23 expenditure for the following financial year.

24 (2) Notwithstanding the provisions of subsection (1) of this section,
25 the Directorate may also, in any financial year, submit supplementary or
26 adjusted statements of estimated income and expenditure to the National
27 Assembly for appropriation.

28 (3) The financial year of the Directorate shall be for a period of twelve
29 calendar months commencing on the 1st of January in each year.

Funding

30 **22.**-(1) The Directorate shall establish and maintain a fund from

1 which all expenditures incurred by the Directorate shall be defrayed.

2 (2) The Fund shall comprise funds derived from but not limited to
3 the following sources:

4 (a) such money as may, from time to time, be appropriated to the
5 Directorate by the National Assembly;

6 (b) gifts, loans, grants and aids; and

7 (c) all other assets that may from time to time accrue to the
8 Directorate.

9 (3) The Directorate shall, from time to time, apply the proceeds of
10 the fund established pursuant to subsection (1) of this section:

11 (a) to the costs of administration of the Directorate;

12 (b) to the payment of salaries, wages, fees or other remuneration or
13 allowances, pensions and other retirement benefits payable to staff or
14 employees of the Directorate;

15 (c) for maintenance of any property acquired or vested in the
16 Directorate;

17 (d) for the purposes of investment, as prescribed by the Trustees
18 Investments Act, Laws of the Federation of Nigeria, or any other relevant
19 statute; and

20 (e) in connection with all or any of the functions of the Directorate
21 as specified under this Act.

22 23.-(1) The Directorate may accept gifts of money or other
23 property upon such terms and conditions, if any, as may be specified by the
24 person or organisation making the gift provided such terms and conditions
25 are not inconsistent with the objectives and functions of the Directorate
26 under this Act.

27 (2) Nothing in subsection (1) of this section or in this Act shall be
28 construed to allow the Director-General and other staff of the Directorate to
29 accept gifts for their personal use or be influenced by such gift in the
30 discharge of their official responsibilities.

Power to accept
Gift

- Borrowing Power 1 **24.** The Directorate may, with the consent of the Minister of Finance,
2 borrow money as may be required by the Directorate for the exercise of its
3 functions under this Act, on such terms and conditions as the Minister may
4 determine.
- Accounts and Audit 5 **25.** The Directorate shall keep proper accounts of its income and
6 expenditure in respect of each year and shall cause its accounts to be audited
7 within six months after the end of each year by auditors approved by the Board.
8 The auditors shall be subject to reappointment of not more than 5 years
9 provided that such auditors are appointed in accordance with guidelines
10 published by the Auditor-General of the Federation.
- Annual Reports 11 **26.**-(1) The Board shall prepare and submit to the President, not later
12 than 30th June in each year, a report in such form as the President may direct on
13 the activities of the Directorate during the immediately preceding year, and
14 shall include in the report a copy of the audited accounts of the Directorate for
15 that year and the auditor's report thereon.
16 (2) The President shall upon receipt of the report referred to in
17 subsection (1) of this section, cause a copy of the report and the audited
18 accounts and the auditor's report thereon to be submitted to each House of the
19 National Assembly.
- Exemption from Income Tax 20 **27.**-(1) All income derived by the Directorate from the sources
21 specified in section 22 (2) of this Act shall be exempt from income tax.
22 (2) Where contributions to the fund of the Directorate are made by a
23 person subject to tax under the provisions of any law in force in Nigeria, all
24 such contributions shall be tax deductible.
- Notice 25 **28.**-(1) No suit shall be commenced against the Directorate before the
26 expiration of a period of three months after written notice of intention to
27 commence the suit shall have been served on the Directorate by the intending
28 plaintiff or his agent.
29 (2) The notice shall clearly state the:
30 (a) cause of action;

- 1 (b) particulars of the claim;
- 2 (c) name, address for service and place of abode of the intending
- 3 plaintiff; and
- 4 (d) relief claimed by the intending plaintiff.

5 29. The notice referred to in section 35 (2) and any summons, Service of Notice

6 notice or other document required or authorised to be served on the

7 Directorate under the provisions of this Act or any other enactment or law,

8 may be served by:

9 (a) delivering same to the Chairman or the Director-General of the

10 Directorate; or

11 (b) sending it by registered post addressed to the Chairman or

12 Director-General at the head office of the Directorate.

13 PART 4 - NIGERIAN PETROLEUM COMMISSION

14 30.-(1) There is established under this Act the Nigerian Petroleum Establishment of

15 Commission (in this Act referred to as the "Commission") which shall be a the Nigerian

16 body corporate with perpetual succession and a common seal and which Petroleum

17 may sue or be sued in its corporate name. Commission

18 (2) The Commission shall have power to:

19 (a) enter into contracts and incur obligations;

20 (b) acquire, hold, mortgage, purchase and deal with property,

21 whether movable or immovable, real or personal; and

22 (c) do all such things as are necessary for or incidental to the

23 carrying out of its functions and duties under this Act.

24 (3) From the date of the commencement of this Act, without further

25 assurance, the Commission shall be vested with all assets, funds, resources

26 and other movable and immovable properties which immediately before the

27 commencement of this Act were held by the Petroleum Inspectorate, the

28 Department of Petroleum Resources and the Petroleum Products Pricing

29 Regulatory Agency.

30 (4) As from the date of commencement of this Act:

1 (a) the rights, interests, obligations and liabilities of the Petroleum
2 Inspectorate, Department of Petroleum Resources and the Petroleum Products
3 Pricing Regulatory Agency existing immediately before the Effective Date
4 under any contract or instrument or at law or in equity shall by virtue of this Act
5 be assigned to and vested in the Commission;

6 (b) any such contract or instrument covered by subsection 4(a) of this
7 section shall be of the same force and effect against or in favour of the
8 Commission and shall be enforceable as fully and effectively as if instead of the
9 Petroleum Inspectorate, Department of Petroleum Resources or the Petroleum
10 Products Pricing Regulatory Agency, the Commission had been named therein
11 or had been a party thereto; and

12 (c) the Commission shall be subject to all the obligations and
13 liabilities to which the Petroleum Inspectorate, Department of Petroleum
14 Resources and the Petroleum Products Pricing Regulatory Agency were
15 subject immediately before the Effective Date and all other persons shall as
16 from the Effective Date have the same rights, powers and remedies against the
17 Commission as they had against the Petroleum Inspectorate, Department of
18 Petroleum Resources and the Petroleum Products Pricing Regulatory Agency
19 immediately before the Effective Date.

20 (5) The Commission shall be structured into departments as its Board
21 may, from time to time, deem appropriate for the effective discharge of its
22 functions under this Act.

Objectives of
the Commission

23 **31. The Commission shall:**

24 (a) promote healthy, safe and efficient conduct of all petroleum
25 operations in an environmentally friendly and sustainable manner;

26 (b) promote the efficient, safe, effective and sustainable
27 infrastructural development of the petroleum industry;

28 (c) ensure compliance with all applicable laws and regulations
29 governing the petroleum industry;

30 (d) determine and ensure the implementation and maintenance of

1 technical standards, codes and specifications applicable to the petroleum
2 industry in line with global best practice;

3 (e) subject to the provisions of this Act, execute Government
4 policies for the petroleum industry assigned to it by the Minister;

5 (f) promote an enabling environment for investments in the
6 petroleum industry;

7 (g) ensure that regulations are fair and balanced for all classes of
8 lessees, licensees, permit holders, consumers and other stakeholders;

9 (h) in consultation with the Ministry of Environment, ensure strict
10 implementation of environmental policies, laws and regulations as pertains
11 to oil and gas operations; and

12 (i) implement such other objectives as are consistent with the
13 provisions of this Act.

14 **32.-(1) The Commission shall:**

Functions of the
Commission

15 (a) administer and enforce policies, laws and regulations relating to
16 all aspects of petroleum operations which are assigned to it under the
17 provisions of this Act or any regulations made in pursuance of this Act or
18 under any other enactment;

19 (b) determine, outline and make provision for guideline,
20 requirement and procedures for the receipt and processing of applications
21 for issuance of all leases, licences, permits and authorizations including
22 terms and procedures for their renewals, amendments, extensions,
23 suspensions and revocations;

24 (c) monitor and enforce compliance with the terms and conditions
25 of all leases, licences, permits and authorizations issued in respect of any
26 petroleum operations;

27 (d) define and enforce approved standards for design, construction,
28 fabrication, operation and maintenance for all plants, installations and
29 facilities utilized or to be utilized in petroleum operations;

30 (e) in consultation with the Ministry of Environment, establish,

- 1 monitor, regulate and enforce health, safety and environment measures
2 relating to all aspects of petroleum operations as well as ensure adherence to
3 applicable national and international environmental and other technical
4 standards by all persons involved in petroleum operations;
- 5 (f) establish, monitor, regulate and enforce health and safety
6 measures relating to all aspects of petroleum operations;
- 7 (g) keep public registers of all leases, licenses, permits and other
8 authorizations issued by the Minister on the recommendation of the
9 Commission or and any renewals, amendments, extensions, suspensions and
10 revocations thereof;
- 11 (h) monitor the activities of the holders of leases, licenses, permits
12 and other authorizations issued by the Minister on the recommendation of the
13 Commission or to secure and enforce compliance with the terms and
14 conditions thereof and carry out enquiries, tests, audits, investigations and any
15 other undertakings deemed necessary for performance of this responsibility;
- 16 (i) publish reports and statistics on the petroleum industry;
- 17 (j) develop and publish methodologies for tariffs and pricing relating
18 to third party access to petroleum facilities from time to time by regulation;
- 19 (k) establish the framework for the validation and certification of
20 national hydrocarbon reserves;
- 21 (l) advise the Minister on fiscal framework and other issues pertaining
22 to the petroleum industry;
- 23 (m) undertake evaluation of national reserves and reservoir
24 management studies;
- 25 (n) conduct regular audits of the activities of operators engaged in
26 petroleum operations and oil service companies in order to ensure compliance
27 with Nigerian laws and requirements for petroleum operations;
- 28 (o) maintain a petroleum industry data bank comprising all data
29 acquired by or given to the Commission in the exercise of its statutory
30 functions;

1 (p) supervise and ensure accurate calibration and certification of
2 equipment used for fiscal measures for upstream petroleum operations;

3 (q) issue licenses or permits and any other authorizations necessary
4 for all activities connected with, but not limited to the following:

5 (i) Seismic;

6 (ii) Drilling;

7 (iii) Design, fabrication, construction, commissioning and
8 decommissioning of all facilities for upstream petroleum operations, and

9 (iv) Maximum efficiency rate test and other well test/production
10 related activities;

11 (r) manage and administer all unallocated acreage of crude oil and
12 natural gas and all upstream petroleum data;

13 (s) conduct bid rounds or other processes for the award of any
14 licence or lease required for petroleum exploration or production;

15 (t) make recommendations to the Minister for the issuance,
16 modification, amendment, extension, suspension, review, cancellation and
17 reissuance, revocation and / or termination of upstream licences made in
18 compliance with applicable laws and regulations;

19 (u) approve all field development programmes;

20 (v) allocate petroleum production quotas;

21 (w) develop benchmarks and cost management strategies for
22 petroleum operations performance monitoring;

23 (x) compute, assess and ensure payment of royalties, rentals, fees,
24 and other charges for upstream petroleum operations; and

25 (y) issue clean certificates of inspection at the oil terminals to
26 exporters of crude oil upon satisfaction that the requirements as to quality
27 and quantity have been complied with;

28 (z) regulate and co-ordinate the activities of the industry in a non-
29 discriminatory and transparent manner;

30 (aa) establish the methodology for determining appropriate tariffs

- 1 for gas processing, gas transportation / transmission and transportation of
2 crude oil and bulk storage of oil and gas;
- 3 (aa) develop cost benchmarks for key elements of midstream &
4 downstream petroleum operations;
- 5 (bb) regulate bulk storage, transportation and transmission of crude
6 oil and gas and set rules for the common carrier systems for crude oil and gas;
- 7 (cc) promote the principles of sustainable infrastructural
8 development;
- 9 (dd) promote competition and private sector participation;
- 10 (ee) ensure that all economic and strategic demands for gas in the
11 domestic economy are met;
- 12 (ff) monitor and enforce the actual application of tariffs and pricing
13 frameworks;
- 14 (gg) monitor market behaviour including the development and
15 maintenance of competitive markets;
- 16 (hh) arrest situations of abuse of dominant power and restrictive
17 business practices;
- 18 (ii) inspect the metering of pumps and all other facilities and ensure
19 their compliance with safety standards as prescribed by the Commission;
- 20 (jj) grant, issue and renew licences, permits and authorizations
21 including but not limited to licences, permits or authorizations for downstream
22 gas, petroleum products, storage depots, retail outlets, transportation and
23 distribution facilities and the design, fabrication, construction, commissioning
24 and decommissioning of all facilities including those for gas and
25 petrochemicals and prescribe requirements to be satisfied by applicants for
26 these purposes;
- 27 (kk) modify, amend, extend, suspend, review, cancel and reissue,
28 revoke and /or terminate licences, permits and authorizations;
- 29 (ll) establish methodology for calculating the fair market value of
30 petroleum products;

1 (mm) regulate and set rules for petroleum products distribution,
2 petroleum product pipelines, retail outlets and storage depots;

3 (nn) ensure security of petroleum products supply, market
4 development and the development of competition;

5 (oo) develop market rules for trading in wholesale gas supplies to
6 downstream gas distributors;

7 (pp) establish customer protection measures;

8 (qq) undertake consultation with customers, licensees and other
9 industry participants; where necessary, for purpose of:

10 (i) promoting and protecting the interests of consumers; and

11 (ii) promoting the principles of sustainable resource and
12 infrastructural development through the efficient supply and use of
13 downstream gas and other petroleum products;

14 (rr) regulate and ensure the supply, distribution, marketing and
15 retail of petroleum products;

16 (ss) administer and monitor the national operating and strategic
17 stocks as set by the Minister;

18 (tt) monitor and enforce the actual application of petroleum
19 product pricing formulae or framework for petroleum products;

20 (uu) enforce consumer rights in relation to petroleum products and
21 services;

22 (vv) establish appropriate dispute settlement mechanisms relating
23 to the commercial rights and obligations of operators and customers
24 pursuant to the provisions of this Act or any other enactment or regulation,
25 provided that operators and customers shall reserve the right to resolve
26 disputes in accordance with the terms of their contracts or approach a court
27 with jurisdiction in the matter;

28 (ww) inspect the metering of pumps and any other facilities at
29 downstream retail outlets to ensure compliance with safety standards;

30 (xx) establish, monitor and regulate health, environmental and

1 safety measures relating to the management of downstream assets, including
2 but not limited to refineries, petrochemical plants, lube plants, petroleum
3 depots & pipelines and downstream gas plants;

4 (yy) monitor and ensure the quality and process of conversion or
5 blending of whatever material by whatever method to fuels, bio- fuels or other
6 petroleum derivatives for automotive use in Nigeria;

7 (zz) Monitor and ensure the quality of petroleum products sold in
8 Nigeria.

9 (2) In addition to the functions specified above, the Commission
10 shall:

11 (a) develop open access rules applicable to crude oil and petroleum
12 products and natural gas transportation pipelines, strategic depots, loading
13 facilities, transportation, transmission and bulk storage facilities;

14 (b) notwithstanding the provisions of any other law or regulations,
15 exclusively supervise and ensure accurate calibration and certification of
16 equipment used for fiscal measures in the industry;

17 (c) undertake by itself or through qualified expertise such other
18 activities as are necessary or expedient for giving full effect to the provisions of
19 this Act; and

20 (d) do such other things as are necessary and expedient for the
21 effective and full discharge of any of its functions under this Act.

22 (3) The Commission shall, in addition to its other functions:

23 (a) promote the exploration of the frontier basins of Nigeria;

24 (b) develop exploration strategies and portfolio management for the
25 exploration of unassigned frontier acreages in Nigeria;

26 (c) identify opportunities and increase information about the
27 petroleum resources base within all frontier acreages in Nigeria; and

28 (d) undertake studies, analyze and evaluate all unassigned frontier
29 acreages in Nigeria;

1 **33.-(a)** In performing its functions as provided in this Act, the
2 Commission shall, where applicable, collaborate with other relevant
3 Government agencies;

Collaboration
and Consultation
with other Agencies.

4 **(b)** Notwithstanding the provisions of any other law or regulation,
5 no Government agency shall exercise any powers and functions in relation
6 to the petroleum industry in conflict with the powers and functions of the
7 Commission;

8 **(c)** All Government agencies exercising any lawful powers and
9 functions in relation to the petroleum industry shall consult with the
10 Commission in the issuance of any regulations, guidelines and in the
11 issuance of enforcement orders or directives which may impact the
12 petroleum industry.

13 **34.-(a)** Without prejudice to the overall responsibility of the
14 Federal Ministry of Environment, the Commission shall have responsibility
15 over all aspects of health, safety and environmental matters in respect of the
16 petroleum industry;

Responsibility for
the Environment

17 **(b)** The Commission shall at all times ensure that any regulation or
18 directive in respect of the petroleum industry, made in pursuance of section
19 33(c) of this Act, shall not conflict with any regulation or directive issued by
20 the Federal Ministry of the Environment;

21 **(c)** For the avoidance of doubt the Commission shall, in
22 consultation with the Federal Ministry of Environment, make regulations
23 and issue directives specifically relating to environmental aspects of the
24 petroleum industry;

25 **(d)** In exercising the functions in section 33(a) to (c), the
26 Commission may in conjunction with the Federal Ministry of Environment
27 establish a joint committee to facilitate collaboration in this regard.

28 **35.** In carrying out its functions under this Act, the Commission
29 shall have power to:

Powers of the
Commission:

30 **(a)** modify, extend, renew, suspend and revoke any licence or

- 1 permit issued by it pursuant to the provisions of this Act;
- 2 (b) in accordance with the provisions of this Act, designate facilities
3 in the petroleum industry as third party access facilities, determine tariff
4 methodology and pricing framework applicable to same, monitor and enforce
5 the application of such tariff and pricing framework and mediate disputes in
6 respect of third party access as may be determined by any regulation made
7 pursuant to this Act;
- 8 (c) request and obtain any information or any document concerning
9 licensed activities in the petroleum industry from any licensee, lessee or permit
10 holder;
- 11 (d) where it considers it to be in the public interest:
- 12 (i) publish information relating to petroleum operations provided by
13 lessees, licensees and permit holders; and
- 14 (ii) require lessees, licensees and permit holders to publish particular
15 information relating to petroleum operations subject to the provisions of
16 Regulation 7(5) of the National Data Repository Regulation 2007;
- 17 (e) enforce relevant lease, licence or permit conditions and the
18 specific requirements of this Act or any other enactment or regulation;
- 19 (f) issue penalties and fines in accordance with the provisions of this
20 Act or any other enactment or regulation;
- 21 (g) enforce the provisions of any enactments or regulations applicable
22 to petroleum operations made prior to the commencement of this Act or any
23 other enactment or regulation;
- 24 (h) institute legal proceedings against any lessee, licensee or permit
25 holder for failure to comply with lease, licence or permit conditions or other
26 requirements of this Act or any other enactment or regulation;
- 27 (i) make and enforce regulations and prescribe fees in line with the
28 provisions of this Act or any other enactment or regulation; and
- 29 (j) issue guidelines in line with the provisions of this Act or any other
30 enactment or regulation.

1 36.-(1) The Commission may subject to the provisions of Regulations
2 subsections (2) and (3) of this section, make regulations necessary to give
3 proper effect to the provisions of this Act.

4 (2) The Commission shall prior to making any regulation under
5 this Act, conduct a public hearing in the manner specified in subsection (4)
6 of this section on the subject matter of the proposed regulation.

7 (3) The Commission shall, in making any regulation, take into
8 consideration the findings of the public hearing conducted in pursuance of
9 subsection (2) of this section.

10 (4) Before holding a public hearing in pursuance of subsection (2)
11 of this section, the Commission shall publish in at least two national
12 newspapers and its website, notice of:

13 (a) the fact that it is holding the public hearing;

14 (b) invitation to members of the public to participate in the public
15 hearing;

16 (c) the venue and period during which the public hearing is to be
17 held;

18 (d) the nature of the matter to which the public hearing relates;

19 (e) the matters that the Commission would like the submissions to
20 deal with;

21 (f) the form in which members of the public are to make
22 submissions to the Commission on the subject matter of the public hearing;

23 (g) the period of public notice for the commencement of the public
24 hearing, which shall not be less than twenty-one days; and

25 (h) the address or addresses to which the submissions may be sent.

26 (5) Notwithstanding the provision of subsection (2) of this section,
27 the Commission may, due to the exigency of the circumstances, make any
28 regulation without conducting a public hearing, where it deems it necessary
29 to do so.

30 (6) Any regulation made pursuant to sub-section (5) of this section

1 shall be valid for not longer than six months with effect from its
2 commencement date, unless it is confirmed after a public hearing.

Decisions and
orders made by
the Commission

3 37.-(1) The Commission shall ensure that any decision or order made
4 by the Commission:

5 (a) contains the basis for the decision or order;

6 (b) are properly recorded in writing; and

7 (c) are accessible to the public at reasonable times and places.

8 (2) The Commission shall issue written reasons in respect of any
9 decisions or orders affecting the existing rights of any person, if the affected
10 person requests such written reasons.

11 (3) The Commission may issue written reasons in respect of any other
12 decision or order as the Commission deems necessary.

13 (4) Every recommendation, declaration, decision or order of the
14 Commission, if purporting to be signed by a person describing himself as the
15 Chief Executive Commissioner of the Commission or by a person describing
16 himself as a Commissioner acting in the capacity of the Chief Executive
17 Commissioner, shall unless the contrary is shown, be deemed to be made by the
18 Commission and to have been so signed and may be proved by the production
19 of a copy thereof purporting to have been so signed.

20 (5) The Commission may make interim orders pending the final
21 disposition of a matter before it.

Commission to
give notice to
interested parties

22 38.-(1) The Commission may hold a hearing on any matter, which
23 under this Act or any other enactment is required or permitted to be conducted
24 or on which it is required or permitted to take any action and the Commission
25 shall hold public hearing on matters which the Commission determines to be of
26 significant interest to the general public.

27 (2) Where the Commission is required to or otherwise decides to hold
28 a hearing, all persons having an interest in such matter shall, as far as
29 reasonably practicable, be notified of the questions in issue and given
30 opportunities to make representations, if they so wish.

1 (3) The Commission shall take into consideration the findings of
 2 any public hearing conducted in pursuance of subsection (1) of this section.

3 39. When any matter arises which entails the consideration of any
 4 professional or technical question, the Commission may consult such
 5 persons as may be qualified to advise it on the matter.

Engagement of
 expertise support

6 40.-(1) If any question of law arises from an order or decision of the
 7 Commission, the Commission may, on its own initiative or at the request of
 8 any person directly affected by such order, reserve that question for the
 9 decision of the Federal High Court.

Question of law
 may be referred to
 the Federal High
 Court

10 (2) Where a question has been reserved under subsection (1) of this
 11 section, the Commission shall state the question in the form of a special case
 12 and file it with the Registrar of the Federal High Court.

13 41.-(1) There shall be established for the Commission a Governing
 14 Board (in this Act referred to as the "Board") which shall be responsible for
 15 the policy and general administration of the Commission.

Governing Board
 of the Commission

16 (2) The Board shall consist of the following members:

17 (a) a non-executive Chairman;

18 (b) one non-executive Director;

19 (c) the Chief Executive Director;

20 (d) three other Executive Directors;

21 (e) a representative of the Ministry of Petroleum Resources who
 22 shall not be below the rank of director;

23 (f) a representative of the Ministry of Finance who shall not be
 24 below the rank of director;

25 (g) a representative of the Ministry of Environment who shall not
 26 be below the rank of director;

27 (3) The appointment to the Board pursuant to subsections 2(a) to
 28 (d) of this section shall be made by the President subject to
 29 confirmation by the Senate.

30 (4) The board members shall be persons of high integrity and

1 substantial relevant experience;

2 (5) In appointing the Chairman and the non-executive Director, the
3 President shall have due regard to a fair representation of technical, legal and
4 commercial experience.

5 (6) The persons appointed in paragraphs (a) and (b) of subsection (2)
6 of this section shall hold office for a term of four years in the first instance,
7 which term may be renewed for another term of four years only on such terms
8 and conditions as may be specified in their letters of appointment.

9 (7) Appointment to the Board in respect of persons appointed
10 pursuant to subsection 2(a) and (b) of this section shall be on part-time basis.

11 (8) For the avoidance of doubt, the non-executive director shall not
12 participate in the day to day operations of the Commission;

13 (9) The proceedings of the Board and other ancillary matters shall be
14 in accordance with the provisions of the Third Schedule to this Act.

15 (10) Subject to subsection (9) of this section, the Board shall have the
16 power to make standing orders for the regulation of its proceedings and
17 meetings and acts of the Board shall be deemed to be acts of the Commission.

18 (11) The conflict of interest provisions contained in the Third
19 Schedule to this Act shall apply to all members of the Board.

20 **42.-(1)** The Board shall:

21 (a) be responsible for the general direction and supervision of the
22 Commission;

23 (b) oversee the operations of the Commission;

24 (c) provide general guidelines for the carrying out of the functions of
25 the Commission;

26 (d) review and approve the business, strategic and operating plans of
27 the Commission;

28 (e) consider and approve the budget of the Commission and monitor
29 its performance;

30 (f) approve the audited and management accounts of the Commission

1 and undertake consideration of the management letter from the external
2 auditors;

3 (g) determine the terms and conditions of service of employees of
4 the Commission;

5 (h) stipulate remuneration, allowances, benefits and pensions of
6 staff and employees of the Commission in consultation with the National
7 Salaries, Incomes and Wages Commission;

8 (i) structure the Commission into such number of departments as it
9 deems fit for the effective discharge of the functions of the Commission; and

10 (j) carry out such other functions and undertake such other
11 activities which in the opinion of the Board are necessary to ensure the
12 efficient and effective administration of the Commission in accordance with
13 the provisions of this Act or as may be delegated to the Commission by the
14 Minister.

15 (2) In carrying out their functions all members of the board shall
16 have a duty to exercise independent judgment.

17 43.-(1) Members of the Board shall be paid from the funds of the
18 Commission such remuneration and allowances as the Commission may
19 from time to time determine, having regard to the recommendation of the
20 National Salaries, Incomes and Wages Commission.

Remuneration
and allowances
of members of
the board

21 (2) While making recommendations, the National Salaries,
22 Incomes and Wages Commission shall have due regard to the following
23 principles:

24 (a) the specialized nature of work to be performed by the
25 Commission;

26 (b) the need to ensure the financial self-sufficiency of the
27 Commission; and

28 44.-(1) A member of the Board may be suspended or removed from
29 office by the President if the member:

Disqualification
and cessation of
appointment

30 (a) is found to have been unqualified for appointment as a member

1 of the Board pursuant to the provisions of section 41 of this Act or is in a breach
2 of the conflict of interest provision set out in the Third Schedule to this Act after
3 his appointment;

4 (b) if he ceases to be an employee of the ministry which he represents
5 on the Board;

6 (c) has demonstrated inability to effectively perform the duties of the
7 office;

8 (d) has been absent from three consecutive meetings of the Board
9 without the consent of the Chairman or when the Chairman is involved without
10 the consent of the President except good reason is shown for such absence;

11 (e) is guilty of serious misconduct;

12 (2) Prior to the suspension or removal of a Director under subsection
13 (1) of this section, the President shall inform the Director by written notice, as
14 soon as practicable, of his intention to suspend or remove the Director from
15 office and the reasons there for.

16 (3) The affected Director under subsection (1) of this section shall be
17 given a reasonable opportunity to make written submissions to the President
18 within a time period specified in the notice and such time period shall not be
19 less than 14 days from the date of the notice.

20 (4) The affected Director may, within the time period specified in the
21 notice, submit a written submission and the President shall consider the
22 submission in making his final decision on the Director's suspension or
23 removal from office.

24 45. A non-executive member of the Board may resign his
25 appointment by giving two months' written notice addressed to the President.

26 46.-(1) A vacancy on the Board shall occur if a member of the Board:

27 (a) dies;

28 (b) is removed from office in accordance with section 44 of this Act;

29 (c) resigns from office; or

30 (d) completes his tenure of office.

Resignation of
a non-executive
member of the
board

Vacancy on the
board

1 (3) A vacancy on the Board shall be filled by the appointment of
2 another person by the President in accordance with section 41 of this Act.

3 (4) if a member of the Board dies, resigns or otherwise vacates his
4 office before the expiry of the term for which he has been appointed, there
5 shall be appointed a fit and proper person in the manner prescribed by
6 section 41 of this Act to take his place on the Board.

7 47.-(1) There shall be for the Commission a Chief Executive
8 Director who shall be the chief executive and accounting officer of the
9 Commission responsible for the day-to-day running of the affairs of the
10 Commission.

The Chief
Executive Director
and Executive
Directors

11 (2) There shall be for the Commission three Executive Directors
12 who shall be specifically assigned with the responsibility for leading the
13 regulation of upstream, midstream and downstream activities in the sector.

14 (3) The persons to be appointed Chief Executive Director and
15 Executive Directors shall have extensive technical or professional
16 knowledge of the petroleum industry with a minimum of fifteen years'
17 experience with relevant cognate experience at management level.

18 48.-(1) The Chief Executive Director and Executive Directors
19 shall be appointed by the President subject to confirmation by the Senate.

Appointment,
tenure,
remuneration and
conditions of
service of the
Chief Executive
Directors and
Executive Directors

20 (2) The Chief Executive Director shall be appointed in the first
21 instance for a term of five years and shall be eligible for re-appointment for
22 another term of five years.

23 (3) The Executive Directors shall be appointed in the first instance
24 for a term of four years and shall be eligible for re-appointment for another
25 term of four years.

26 49. A person shall not be appointed as a Director if he or she:

Disqualification
from appointment

27 (a) has a financial interest in any business connected, either
28 directly or indirectly with the Nigerian petroleum industry, or is engaged in
29 any activity (whether for remuneration or otherwise) connected with the
30 petroleum industry, provided that such person may be appointed if he or she

1 declares his or her interest and makes the appropriate arrangements that
2 ensures the avoidance of a conflict of interest, or is a relative of a person who
3 has such an interest or is engaged in such an activity, unless the President is
4 satisfied that the interest or activity is in effect passive and will not interfere
5 with the person's impartial discharge of his duties as a Director or unless the
6 financial interest is terminated prior to the appointment taking effect, or

7 (b) has:

8 (i) been adjudged or declared bankrupt or insolvent and has not been
9 rehabilitated or discharged;

10 (ii) made an assignment to or arrangement or composition with his
11 creditors which has not been rescinded or set aside;

12 (iii) been declared to be of unsound mind;

13 (iv) been convicted of any criminal offence by a court of competent
14 jurisdiction except for traffic offences or contempt proceedings arising in
15 connection with the execution or intended execution of any power or duty
16 conferred under this Act; or

17 (v) been disqualified or suspended from practicing his profession by
18 the order of a competent authority made in respect of him personally.

Other staff, etc.

19 50.-(1) The Board may appoint for the Commission such number of
20 persons as employees of the Commission as it may deem necessary.

21 (2) The employment of the Commission's staff shall be subject to such
22 terms and conditions as may from time to time be stipulated by the Board and
23 contained in the respective employment contracts.

24 (3) The Board shall determine and review from time to time, the
25 remuneration and allowances payable to the Commission's staff, having regard
26 to the recommendation of the National Salaries and Wages Commission.

27 (4) While making recommendations, the National Salaries and Wages
28 Commission shall have due regard to the following principles:

29 (a) the specialized nature of work to be performed by the Commission.

30 (5) The Board shall make staff regulations generally relating to the

1 conditions of service of its employees and, in particular, but without
2 prejudice to the generality of the foregoing, such regulations may provide
3 for:

4 (a) the appointment, promotion, dismissal and discipline of
5 employees;

6 (b) appeals by the employees against dismissal or other
7 disciplinary measures; and

8 (c) the grant of pensions, gratuities and other retirement
9 allowances to the employees;

10 (6) Staff of the Commission shall be public officers as defined in
11 the Constitution of the Federal Republic of Nigeria, 1999.

12 (7) For the purpose of this section, appointment shall include
13 secondment, transfer and contract appointments.

14 51.-(1) Employment in the Commission shall be subject to the
15 provisions of the Pensions Reform Act and officers and employees of the
16 Commission shall be entitled to pension and other retirement benefits as
17 prescribed under the Pensions Reform Act.

Pension

18 (2) Nothing in subsection (1) of this section shall prohibit the
19 Commission from appointing a person to any office on terms that preclude
20 the grant of a pension or other retirement benefits in respect of that office.

21 (3) Subject to the Pensions Reform Act, and notwithstanding the
22 provisions of this section, the Commission shall continue to fulfill all
23 obligations in respect of pensions schemes to which the Petroleum
24 Inspectorate, Department of Petroleum Resources and the Petroleum
25 Products Price Regulatory Agency were obliged in respect of its employees,
26 prior to the transfer of assets and liabilities to the Commission.

27 52.-(1) The Commission shall not later than 30th September or
28 such other date to be determined by the Ministry responsible for Budgets in
29 each financial year, prepare and present for appropriation to the National
30 Assembly through the Federal Ministry responsible for Budgets, a

Financial
provision

1 statement of estimated income and expenditure for the following financial
2 year.

3 (2) Notwithstanding the provisions of subsection (1) of this section,
4 the Commission may also, in any financial year, submit to the National
5 Assembly through the Federal Ministry responsible for Budgets,
6 supplementary or adjusted statements of estimated income and expenditure for
7 appropriation.

8 (2) The financial year of the Commission shall be a period of twelve
9 calendar months commencing on the 1st of January in each year.

Funding

10 53.-(1) The Commission shall establish and maintain a fund from
11 which all expenditures incurred by the Commission shall be defrayed.

12 (2) The Fund shall comprise monies derived from the following
13 sources:

14 (a) Such moneys which shall be a percentage of the revenue generated
15 by the Commission for the Government of the Federation as may be
16 determined and appropriated to the Commission from time to time by the
17 National Assembly provided such money shall not exceed %;

18 (b) fees charged for services rendered to holders of licences, permits
19 or other authorizations;

20 (c) penalties and fines levied by the Commission;

21 (d) income derived from publications produced by the Commission
22 and from reviews of environmental impact assessment reports and
23 environmental evaluation reports and other related activities;

24 (e) fees for services rendered to non-petroleum producing companies
25 and service companies and for other services performed generally;

26 (f) fees charged for sale of data acquired by the Commission; and

27 (g) grants, loans, grants-in-aid or grants of land from communities for
28 facilities for use by the Commission.

29 (3) The Commission shall apply the proceeds of the Fund established
30 pursuant to subsection (1) of this section:

1 (a) to meet the administrative and operating costs of the
2 Commission;

3 (b) to provide for the payment of salaries, wages, fees or other
4 remuneration or allowances, pensions and other retirement benefits payable
5 to staff or employees of the Commission;

6 (c) for the maintenance of property acquired by or vested in the
7 Commission;

8 (d) for purposes of investment, as prescribed by the Trustee
9 Investments Act, or any other relevant legislation subject to the approval of
10 the Minister responsible for Budgets; and

11 (e) generally, in connection with the carrying out of any of its
12 functions under this Act.

13 (4) The Commission shall ensure that all monies accruing from
14 upstream leases, bonuses, lease renewal fees, assignment fees and
15 concession rentals charged under this Act or any subsidiary legislation or
16 regulation made pursuant to this Act are paid into the Federation Account.
17 The Commission shall also ensure that all other monies accruing from its
18 activities including but not limited to fines and penalties are paid into the
19 Consolidated Revenue Fund.

20 (5) For any particular year, if monies accruing to the Fund from
21 appropriation established pursuant to subsection (2) of this section, have not
22 been fully applied for the purposes provided for in subsection (3) of this
23 section, such monies shall be paid into the Consolidated Revenue Fund.

24 54.-(1) The Commission may accept grants of money or other
25 property upon such terms and conditions as may be specified by the person
26 or organization making the gift provided, such terms and conditions are not:

27 (a) Inconsistent with the objectives and functions of the
28 Commission under this Act.

29 (b) Accepted from persons or organizations regulated by the
30 Commission.

Power to accept
grants

1 (2) Nothing in subsection (1) of this section or in this Act shall be
2 construed to allow any member of the Board or staff of the Commission to
3 accept grants for their personal use.

Accounts and
audit

4 55. The Commission shall keep proper accounts of its income and
5 expenditure in respect of each financial year and shall cause its accounts to be
6 audited within six months after the end of each year by auditors appointed by
7 the Commission from a list and in accordance with the guidelines supplied by
8 the Auditor-General of the Federation.

Mid-year and
annual reports

9 56.-(1) The Commission shall submit to the Minister, a mid-year
10 report of its operations and finances not later than 31st August of each year and
11 an annual report of its operations, performance and audited financial report of
12 the preceding year not later than 31st May of the following year.

13 (2) A summary of the annual report and audited financial report of the
14 Commission shall be published on the website of the Commission for public
15 notice not later than 31st of July of each year.

Exemption from
Income Tax

16 57. The provisions of any enactment relating to the taxation of
17 companies or trust funds shall not apply to the Commission.

Limitation of
suit against the
Commission, etc.

18 58.-(1) Subject to the provisions of this Act, the provisions of the
19 Public Officers Protection Act shall apply in relation to any suit instituted
20 against the Commission, any member of the board, an officer or employee of
21 the Commission.

22 (2) No suit shall lie against the Commission, any member of the
23 board, or any other officer or employee of the Commission for any act done in
24 pursuance or execution of this Act or any other law or enactment, or of any
25 public duty or authority in respect of any alleged neglect or default in the
26 execution of this Act or any other law or enactment, duty or authority, or be
27 instituted in any court unless it is commenced:

28 (a) within twelve months next after the act, neglect or default
29 complained of; or

30 (b) in the case of a continuation of damage or injury, within 6 months

1 next after the ceasing thereof.

2 (3) No suit shall be commenced against the Commission, any
3 member of the board, or any official or employee of the Commission before
4 the expiration of a period of one month after written notice of the intention to
5 commence the suit shall have been served on the Commission by the
6 intending plaintiff or his agent.

7 (4) The notice referred to in subsection (3) of this section shall
8 clearly and explicitly state the cause of action, the particulars of the claim,
9 the name and address of the intending plaintiff and the relief which he
10 claims.

11 59. A notice, summons or other document required or authorised
12 to be served on the Commission under the provisions of this Act or any other
13 law or enactment may be served by delivering it to the office of the Chief
14 Executive Director of the Commission or in the office of the head of any
15 branch of the Commission in any state of the federation.

Service of court
process on the
Commission

16 60.-(1) In any action or suit against the Commission, no execution
17 or attachment of its physical property shall be issued. Any judgment against
18 the Commission may be enforced through garnishee proceedings provided
19 that not less than two months' notice of the intention to commence the
20 garnishee proceedings shall have been given to the Commission.

Restriction on
execution against
the Commission's
property

21 (2) Any sum of money which may by the judgment of any court be
22 awarded against the Commission shall, subject to any direction given by the
23 court where no notice of appeal against the judgment has been given, be paid
24 from the Fund of the Commission.

25 61.-(1) For the effective conduct of its functions, the Commission
26 shall have a Special Investigation Unit.

Special
Investigation
Unit

27 (2) The Special Investigation Unit or an officer authorized on its
28 behalf shall have powers, with respect to matters under the authority of the
29 Commission in this Act, to:

30 (a) investigate acts which may constitute offences under this Act

1 any other law relating to petroleum operations;

2 (b) collaborate with other Government agencies and persons in
3 relation to the detection or prosecution of offences under this Act or any other
4 law relating to petroleum operations;

5 (c) keep surveillance on oil and gas installations, premises and vessels
6 where it has reason to believe that illegal petroleum operations are going on;
7 and

8 (d) in conjunction with the Nigerian Police and other relevant law
9 enforcement agencies arrest with a warrant obtained from a judicial officer, any
10 person reasonably believed to have committed an offence under this Act.

Indemnity of
board members
and employees

11 62.-(1) Every member of the Board and every employee of the
12 Commission shall be indemnified out of the assets of the Commission against
13 any liability incurred in defending any proceeding against the Commission,
14 whether civil or criminal, if such proceedings are brought against the person in
15 the person's capacity as a member of the Board or employee.

16 (2) Notwithstanding the provisions of subsection (1) of this section,
17 the Commission shall not indemnify any member of the Board or employee of
18 the Commission for any liability incurred as a result of the willful negligence of
19 the member or employee, as the case maybe, or conduct or acts which such
20 person knew or ought to have known to be unlawful.

21 PART 5 - DIRECTION ON INCORPORATION OF NATIONAL OIL COMPANY

Initial funding
of the National
Oil Company

22 63. Not later than 6 months from the date of incorporation of the
23 National Oil Company, The Minister, after consultation with the Minister
24 responsible for Budgets, shall present a request for the appropriation of funds
25 for the initial capitalization of the National Oil Company.

Assessment and
offset of liabilities
of the National
Oil Company

26 65. The Board of Directors of the National Oil Company may, with
27 the approval of its shareholders, utilize any appropriate mechanism, including
28 sale of assets and interests, to offset any liabilities of the National Oil
29 Company, meet any of its future obligations or to achieve its strategic
30 objectives.

1 66.-(1) Notwithstanding the provision of any other law to the
2 contrary, the National Oil Company shall be entitled to retain its revenue
3 from its operations and shall be entitled to defray from such revenue all its
4 expenses including its cash call obligations in respect of its joint venture
5 assets and its petroleum operations and its obligations to lenders and
6 financiers.

Retention of
revenue and
dividend policy

7 (2) The dividend policy of the National Oil Company shall be as
8 determined by the Board of Directors in accordance with the provisions of
9 the Companies and Allied Matters Act and shall be approved by the
10 shareholders.

11 (3) All dividends accruable in respect of the shares held on behalf
12 of the Government shall be paid into the Federation Account.

13 67.-(1) The Minister shall, within twelve months of incorporation
14 of the National Oil Company, by an order, require the NNPC to transfer
15 employees, assets, liabilities, rights and obligations of the NNPC (including
16 assets and liabilities held by the NNPC on behalf of the Government) to the
17 National Oil Company, as specified in the order.

Transfer of
employees, assets
and liabilities

18 (2) A transfer order shall be binding on the NNPC, the National Oil
19 Company and all other persons:

20 (3) Subsection (2) of this section applies despite any general or
21 special Act or any rule of law, including an Act or rule of law that requires
22 notice or registration of transfers.

23 (4) A transfer order may specify and describe, employees, assets,
24 liabilities, rights or obligations to be transferred:

25 (a) by reference to specific employees, assets, liabilities, rights or
26 obligations;

27 (b) by reference to any class of employees, assets, liabilities, rights
28 or obligations; or

29 (c) partly in accordance with subsection (4)(a) of this section and
30 partly in accordance with subsection (4)(b) of this section.

1 (5) With effect from the date specified in the relevant transfer order,
2 all bonds, loans, financing agreements, alternative financing agreements, joint
3 operating agreements, participation agreements, hypothecations, securities,
4 deeds, contracts, instruments, documents and working arrangements
5 subsisting prior to the transfer date and relating to the assets to be transferred
6 pursuant to this section and to which the NNPC was a party shall, on and after
7 the Effective Date, be as fully effective and enforceable against or in favour of
8 the National Oil Company as if, instead of the NNPC, the National Oil
9 Company had been named therein.

10 (6) A transfer order may:

11 (a) specify the date that the transfer takes effect and any interest in
12 property that is transferred by the order shall vest in the National Oil Company
13 on that date;

14 (b) provide that the transfer shall be deemed to have taken effect on a
15 date earlier than the date the transfer order is made, but the Effective Date shall
16 not be earlier than the day on which the National Oil Company was
17 incorporated;

18 (c) provide that the transfer specified in the order and other
19 transactions associated with the transfers shall be deemed to have occurred in a
20 sequence and at times specified in the order;

21 (d) require the NNPC or the National Oil Company:

22 (i) to enter into any written agreement or execute any instrument
23 specified in the order; and

24 (ii) to register in accordance with the order any agreement or
25 instrument entered into or executed under subsection 6(d)(i) of this section;

26 (e) provide that any liability or obligation that is transferred by the
27 order may be enforced against the NNPC, the National Oil Company, or both of
28 them; and that any right that is transferred by the order may be enforced against
29 the NNPC, the National Oil Company, or both of them; or

30 (f) impose conditions on the exercise of powers by the National Oil

1 Company that are related to employees, assets, liabilities, rights or
2 obligations transferred by the transfer order.

3 (7) A transfer order may contain provisions dealing with other
4 matters not specifically referred to in this Part that the Minister considers
5 necessary or advisable in connection with a transfer.

6 (8) The Government may thereafter vest in the National Oil
7 Company any further upstream assets as the Government may from time to
8 time deem fit.

9 68.-(1) A statement, in a registered document to which the National
10 Oil Company is a party, that land described in the document was transferred
11 to it from the NNPC by or pursuant to a transfer order, or any other statement
12 in the document relating to the transfer order, shall be deemed to be
13 conclusive evidence of the facts stated.

Conclusive
evidence

14 (2) Nothing in subsection (1) of this section shall create for any
15 person, an interest in land that the NNPC did not have.

16 69. Subject to subsection 67 (6)(e) on the transfer of liability or
17 obligation under this section without any further assurance other than this
18 section releases the NNPC from any further liability or obligation in respect
19 of the assets or liabilities.

Release from
liability or
obligation

20 70.-(1) Notwithstanding the provisions of section 69:

21 (a) no action or other proceeding shall be commenced against the
22 National Oil Company in respect of any employee, asset, liability, right or
23 obligation if, had there been no transfer, the time for commencing the action
24 or other proceeding would have expired; and

Transfer not
deemed to
constitute a breach
of contract

25 (b) the transfer of assets and liabilities to the National Oil Company
26 by or pursuant to a transfer order, shall not be deemed to:

27 (i) constitute a breach, termination, repudiation or frustration of
28 any contract, including a contract of employment or insurance;

29 (ii) constitute a breach of any Act, regulation or bye-law;

30 (iii) constitute an event of default or force majeure;

1 (iv) give rise to a breach, termination, repudiation or frustration of any
2 licence, permit or other right;

3 (v) give rise to any right to terminate or repudiate a contract, licence,
4 permit or other right; or

5 (vi) give rise to any estoppel.

6 (2) Subsection (1 b) of this section shall not apply to such contracts as
7 may be prescribed by any regulation made for that purpose.

8 (3) Subject to subsection (2) of this section, nothing in this Act and
9 nothing done by or pursuant to a transfer order, shall create any new cause of
10 action in favour of a:

11 (i) holder of a debt instrument issued by the NNPC before the transfer
12 date; or

13 (ii) party to a contract with the NNPC that was entered into before the
14 transfer date.

Guarantee or
surety

15 **71.** Any guarantee or surety which was given or made by the
16 Government or any other person in respect of any debt or obligation of the
17 NNPC and which was effective immediately before the transfer of the principal
18 debt or obligation to the National Oil Company, shall remain fully effective
19 against the guarantor or surety on and after the transfer date in relation to their
20 payment of the debt or the performance of the obligation, as the case may be, by
21 the National Oil Company.

Provision of
Records etc. to
the National
Oil Company

22 **72.** The NNPC shall provide the National Oil Company with all
23 records or copies of records, that are in its custody or control and that relate to
24 an officer, employee, asset, liability, right or obligation that is transferred by or
25 pursuant to a transfer order, including personal information.

Further order
amending a
transfer order

26 **73.** The Minister may at any time within one year after making a
27 transfer order, make a further order amending the transfer order in any way that
28 the Minister considers necessary or advisable, including such order or orders as
29 may be necessary to rectify the transfer of any of the employees, assets,
30 liabilities, rights and obligations pursuant to a verification or an audit of the

1 employees, assets and liabilities of the National Oil Company as at the date
2 of the relevant transfer order, and this Part applies with necessary
3 modifications to the amendment.

4 74. Prior to the vesting of assets and liabilities of the NNPC in the
5 National Oil Company, the Minister may give the Board of Directors of the
6 NNPC directions in writing to ensure the proper transfer of the assets and
7 liabilities of the NNPC to the National Oil Company, and the Board of
8 Directors shall, without delay, comply with such directions.

Directions to the
NNPC on matters
related to transition

9 75.-(1) Any employee of the NNPC transferred to the National Oil
10 Company in accordance with the provisions of this Act shall be transferred
11 to the service of National Oil Company, on terms not less favourable than
12 those enjoyed by him immediately prior to the transfer.

Transfer of
employees to the
National Oil
Company

13 (2) The service rendered by an employee transferred pursuant to
14 the provisions of this Act shall be deemed to be service with the National Oil
15 Company for the purpose of determining employment-related entitlements
16 as specified by the relevant laws of employment in Nigeria.

17 (3) Until such time as conditions of service are drawn up by the
18 National Oil Company:

19 (a) the terms and conditions of service applicable to employees of
20 the NNPC shall continue to apply to every person transferred to the National
21 Oil Company as if every such person were still in the service of the NNPC;

22 (b) an employee shall continue to contribute towards a pension he
23 was contributing to when he was in the employment of the NNPC; and

24 (c) the National Oil Company shall continue to contribute towards
25 a pension scheme to which the NNPC was contributing in respect of
26 employees in the employ of the NNPC; prior to the date of transfer.

27 76. The assets or shares of the subsidiaries of the NNPC listed
28 under the Public Enterprises Privatisation and Commercialization Act shall
29 be de-listed from the Effective Date of this Act and the power of attorney
30 earlier assigned to the Bureau of Public Enterprises shall stand vacated.

Delisting of
assets

Composition
and Appointment
of the Board

- 1 77.-(1) The National Oil Company shall be subject to the Code of
2 Corporate Governance issued by the Securities and Exchange Commission.
- 3 (2) The Minister shall cause the Articles of Association of the
4 National Oil Company to provide for the composition of the Board as follows:
- 5 (a) a non-executive Chairman;
- 6 (b) the Managing Director of the National Oil Company shall be a
7 person with at least 10 years' experience in a senior management position in
8 petroleum exploration and production company;
- 9 (c) 3 other Executive Directors of the National Oil Company shall be
10 persons with at least 10 years' experience in a senior management position in
11 petroleum exploration and production company;
- 12 (d) Three non-Executive Directors provided that one of the non-
13 Executive Directors shall be a person with at least 10 years' experience in
14 senior management position in a petroleum exploration and production
15 company;
- 16 (e) A representative of the Ministry of Petroleum Resources who shall
17 not be below the rank of director.
- 18 (3) Notwithstanding the provisions of the Companies and Allied
19 Matters Act or any other enactment, the power of the shareholders to appoint or
20 remove directors, shall be subject to subsections (4) and (5) of this section and
21 the approval of the President.
- 22 (4) For the purpose of making appointments to the Board of Directors,
23 the shareholders shall constitute an independent committee ("the Board
24 Nomination Committee") of five persons with proven qualifications and tested
25 industry experience one of which shall include a representative of the Ministry
26 of Petroleum Resources who shall not be below the rank of director, to identify
27 and recommend highly qualified candidates for such positions in a transparent
28 manner.
- 29 (5) The two other non-Executive Directors to be appointed pursuant
30 to subsection (2) (d) of this section, shall not be appointed to the Board unless

1 such a person is a holder of a university degree or its equivalent in
2 engineering, geological sciences, economics, law, finance or related subject
3 and possesses at least 10 years' relevant experience at a senior management
4 level.

5 (6) The provisions of subsection (2) to (5) of this section shall cease
6 to have effect upon the divestment by the Government of 30% of its shares in
7 the company on the Nigerian Stock Exchange. Accordingly, the provisions
8 of the Companies and Allied Matters Act, the Articles of Association of the
9 National Oil Company and any Shareholders Agreement by which the
10 Company is bound shall apply to the appointment of the directors and the
11 composition of the Board.

12 78. Upon incorporation of the National Oil Company pursuant to
13 the provisions of this Act, the National Oil Company shall be organized and
14 managed on the basis of the provisions of this Act, the Companies & Allied
15 Matters Act and its Memorandum and Articles of Association.

Management and
governance of the
National Oil
Company

16 79. The Minister shall cause the Articles of Association of the
17 Company to include the following;

Terms of office
of members of
the board

18 (1) An Executive member of the Board shall cease to be a Director
19 of the National Oil Company if he ceases to be an employee of the company
20 for any reason or if otherwise removed in accordance with the provisions of
21 the Companies and Allied Matters Act.

22 (2) The non-executive members of the Board may serve for an
23 initial term of 4 years.

24 (3) Upon the expiration of the initial term of any of the non-
25 executive members of the Board appointed, such member may be eligible
26 for appointment for another term of 4 years and no more.

27 80. The Minister shall cause the Articles of Association to provide
28 that the Board of Directors of the National Oil Company shall submit the
29 following matters to the annual general meeting:

Matters reserved
for the Shareholders

30 (a) plans for the coming year, as well as outlook for the

- 1 intermediate term and significant changes in any of these;
 2 (b) main features of the budget for the coming year;
 3 (c) principles relating to engagement of managers; and
 4 (d) Annual Report and annual accounts in respect of the participating
 5 interests of the State.

Publication of
Annual Report
and annual
accounts of the
national Oil
Company

6 **81.** The Board of Directors shall cause the Annual Reports and annual
 7 accounts submitted to the annual general meeting pursuant to the provisions of
 8 this Act to be published on its website and at least 3 widely circulating National
 9 Newspapers.

Certain exemption
from rates

10 **82.**-(1) Oil pipelines and other installations belonging to the National
 11 Oil Company shall not be regarded as hereditaments or tenements to be valued
 12 for rating purposes.

13 (2) For the purposes of this subsection, the expression "oil pipelines
 14 and other installations" include oil rigs, refineries, power generating plants,
 15 pumping stations, tank farms and similar installations but do not include office
 16 or residential buildings.

17 (3) Except as provided in ~~subsection~~ (1) of this section, nothing in this
 18 Act shall be deemed to exempt the National Oil Company from liability for any
 19 tax, duty, rate, levy or other charge whatsoever, provided that the National Oil
 20 Company shall not be liable to pay any such tax, duty, rate, levy or charge
 21 unless every company involved in similar activities as the National Oil
 22 Company is also liable for such payment.

Protection of
National Oil
Company's land

23 **83.**-(1) Land vested in the National Oil Company shall not be liable to
 24 be acquired compulsorily under any enactment or law.

25 (2) Notwithstanding anything in any other enactment or law, no
 26 mining operations shall be carried on, in or under any land vested in the
 27 National Oil Company or any land over which the National Oil Company is
 28 entitled to rights of support for the benefit of lands so vested except with the
 29 prior consent in writing of the Minister.

30 (3) For the purpose of this section, "land" includes any land under

1 water beyond the territorial waters of Nigeria to which Nigeria is for the time
2 being entitled to any exclusive rights.

3 PART 6 - DIRECTION ON INCORPORATION NIGERIAN PETROLEUM

4 ASSETS MANAGEMENT COMPANY

5 84. On incorporation of the Management Company as required
6 under section 6 of this Act, the Minister shall cause an order to be published
7 in the Gazette stating the date on which the assets of the Management
8 Company are transferred.

Date of Transfer
of Asset to be
published in the
Gazette

9 85. The Minister shall ensure that the Memorandum of
10 Association of the Management Company includes the following objects:

Business or objects
of the Management
Company

11 (a) to hold and manage certain petroleum assets on behalf of the
12 government of the Federation.

13 (b) to ensure maximum value (in terms of return on investments)
14 for the government of the Federation through prudent management of the
15 assets.

16 (c) to negotiate and enter into new exploration and production
17 agreements with other petroleum companies as may be required by the
18 government of the Federation.

19 (d) to monitor the revenue and cost elements of the operation and
20 the production output of its petroleum contracts and undertake the sale of
21 crude oil or other petroleum derivatives produced from the assets.

22 86. In carrying out its business or objects, the Management
23 Company shall have the power to enter into any arms-length arrangement
24 with the National Oil Company incorporated pursuant to the provisions of
25 this Act, or any other reputable petroleum company or service company to
26 provide the Management Company with technical support and expertise in
27 relation to the performance of its functions including the marketing and sale
28 of the Management Company's share of petroleum received in kind,
29 pursuant to the provisions of its petroleum contracts.

Engagement of
technical support

Transfer of
employees, assets
and liabilities

1 87.--(1) The Minister shall, within twelve months of incorporation of
2 the Management Company, by an order require the NNPC to transfer some
3 employees, assets, liabilities, rights and obligations of the NNPC to the
4 Management Company, as specified in the order.

5 (2) A transfer order shall be binding on the NNPC, the Management
6 Company and all other persons.

7 (3) Subsection (2) of this section applies despite any general or
8 special Act, or any rule or law, including an Act or rule or law that requires
9 notice or registration of transfers.

10 (4) A transfer order may specify and describe employees, assets,
11 liabilities, rights or obligations to be transferred:

12 (a) by reference to specific employees, assets, liabilities, rights or
13 obligations;

14 (b) by reference to any class of employees, assets, liabilities, rights or
15 obligations; or

16 (c) partly in accordance with subsection (4)(a) of this section and
17 partly in accordance with subsection (4)(b) of this section.

18 (5) With effect from the date specified in the relevant transfer order,
19 all bonds, loans, financing agreements, alternative financing agreements, joint
20 operating agreements, Production Sharing Contracts, participation
21 agreements, hypothecations, securities, deeds, contracts, instruments,
22 documents and working arrangements subsisting prior to the transfer date and
23 relating to the assets to be transferred pursuant to this section and to which the
24 NNPC was a party shall, on and after the Effective Date, be as fully effective
25 and enforceable against or in favour of the Management Company as if, instead
26 of the NNPC, the Management Company had been named therein.

27 (6) A transfer order may:

28 (a) specify the date that the transfer takes effect and any interest in
29 property that is transferred by the order shall vest in the Management Company
30 on that date;

1 (b) provide that the transfer shall be deemed to have taken effect on
2 a date earlier than the date the transfer order is made, but the Effective Date
3 shall not be earlier than the day on which the Management Company was
4 incorporated;

5 (c) provide that the transfer specified in the order and other
6 transactions associated with the transfers shall be deemed to have occurred
7 in a sequence and at times specified in the order;

8 (d) require the NNPC or the Management Company:

9 (i) to enter into any written agreement or execute any instrument
10 specified in the order; and

11 (ii) to register in accordance with the order any agreement or
12 instrument entered into or executed under subsection 6(d)(i) of this section;

13 (e) provide that any liability or obligation that is transferred by the
14 order may be forced against the NNPC or any relevant successor, the
15 Management Company, or both of them; and that any right that is transferred
16 by the order may be enforced against the NNPC, the Management Company
17 or both of them; or

18 (f) impose conditions on the exercise of powers by the
19 Management Company that are related to employees, assets, liabilities,
20 rights or obligations transferred by the transfer order.

21 (7) A transfer order may contain provisions dealing with other
22 matters not specifically referred to in this Part that the Minister considers
23 necessary or advisable in connection with a transfer.

24 (8) The Government may thereafter vest in the Management
25 Company any further assets as the Government may from time to time deem
26 fit.

27 (9) The Minister may by order require the NNPC to transfer certain
28 employees, assets, liabilities, rights and obligations to any other successor
29 entity incorporated by the Minister pursuant to subsection (3) of section 6 of
30 this Act. Such transfer order shall be binding on the NNPC, such successor

1 entities and all other persons.

Conclusive evidence

2 88.-(1) A statement, in a registered document to which the
3 Management Company is a party, that land described in the document was
4 transferred to it from the NNPC by or pursuant to a transfer order, or any other
5 statement in the document relating to the transfer order, shall be deemed to be
6 conclusive evidence of the facts stated.

7 (2) Nothing in subsection (1) of this section shall create for any person
8 an interest in land that the NNPC did not have.

Release from liability or obligation

9 89. Subject to subsection (6) (e) of section 87 of this Act, the transfer
10 of liability or obligation under this section without any further assurance other
11 than this section releases the NNPC from any further liability or obligation in
12 respect of the assets or liabilities.

Enforcement or continuation of any cause of action or proceedings

13 90.-(1) Subject to subsection (6) (e) of section 87 of this Act, the
14 Management Company shall without further assurance be entitled to enforce or
15 defend all obligations for or against the NNPC in respect of the portion of
16 interests transferred pursuant to section 87(1) as if the Management Company
17 were the original party to such obligations.

18 (2) Any pending action or proceedings in relation to the transferred
19 assets, brought by or against the NNPC immediately before the initial transfer
20 date may be enforced or continued, as the case may be, on and after that date by
21 or against the Management Company in the same way as if this Act had not
22 been enacted.

Transfer not deemed to constitute a breach of contract

23 91.-(1) Notwithstanding the provisions of Section 87:

24 (a) no action or other proceeding shall be commenced against the
25 Management Company in respect of any employee, asset, liability, right or
26 obligation if, had there been no transfer, the time for commencing the action or
27 other proceeding would have expired; and

28 (b) the transfer of employees, assets and liabilities to the Management
29 Company by or pursuant to a transfer order shall not be deemed to:

30 (i) constitute a breach, termination, repudiation or frustration of any

- 1 contract, including a contract of employment or insurance;
- 2 (ii) constitute a breach of any Act, regulation or bye-law;
- 3 (iii) constitute an event of default or force majeure;
- 4 (iv) give rise to a breach, termination, repudiation or frustration of
- 5 any licence, permit or other right;
- 6 (v) give rise to any right to terminate or repudiate a contract,
- 7 licence, permit or other right; or
- 8 (vi) give rise to any estoppel.

9 (2) Subsection (1)(b) of this section shall not apply to such

10 contracts as may be prescribed by any regulation made for that purpose.

11 (3) Subject to subsection (2) of this section, nothing in this Act and

12 nothing done as a result of a transfer by or pursuant to a transfer order, shall

13 create any new cause of action in favour of:

- 14 (i) a holder of a debt instrument issued by the NNPC before the
- 15 transfer date; or
- 16 (ii) a party to a contract with the NNPC that was entered into before
- 17 the transfer date.

18 **92.** Any guarantee or surety which was given or made by the

19 Government or any other person in respect of any debt or obligation of the

20 NNPC and which was effective immediately before the transfer of the

21 principal debt or obligation to the Management Company, shall remain fully

22 effective against the guarantor or surety on and after the transfer date in

23 relation to the repayment of the debt or the performance of the obligation, as

24 the case may be, by the Management Company.

Guarantee or
surety

25 **93.-(1)** The dividend policy of the Management Company shall be

26 as determined by the Board of Directors in accordance with the provisions of

27 the Companies and Allied Matters Act and shall be approved by the

28 shareholders.

Dividend policy

29 (2) All dividends accruable in respect of the shares held on behalf

30 of the Government shall be paid directly into the Federation Account.

Funding

1 **94.**-(1) Not later than 6 months from the date of incorporation of the
2 Management Company, the Minister, after consultation with the Minister
3 responsible for Budgets, shall present a request for the appropriation of funds
4 for the initial capitalization of the Management Company.

5 (2) The Management Company shall pay from its revenue, reasonable
6 operational expenses which shall be detailed in each annual budget and
7 operating plan (and annual reports made by the Management Company
8 pursuant to the provisions of this Act) to be approved by the shareholders and
9 which shall at all times be in line with international best practices for efficiency
10 and creation of value for the Shareholders and the Government. The surplus
11 funds after deducting such reasonable operational expenses shall be paid as
12 dividends to the Federation Account as required under section 93(2) of this Act.

Provision of
records, etc. to
the Management
Company

13 **95.** The NNPC shall provide the Management Company with all
14 records or copies of records, that are in its custody or control and that relate to
15 an officer, employee, asset, liability, right or obligation that is transferred by or
16 pursuant to a transfer order, including personal information.

Further order
amending a
transfer order

17 **96.** The Minister may, at any time within one year after making a
18 transfer order, make a further order amending the transfer order in any way that
19 the Minister considers necessary or advisable, including such order or orders as
20 may be necessary to rectify the transfer of any of the employees, assets,
21 liabilities, rights and obligations pursuant to a verification or an audit of the
22 employees, assets and liabilities of the Management Company as at the date of
23 the relevant transfer order, and this Part applies with necessary modifications
24 to the amendment.

Directions to
the NNPC on
matters related
to transition

25 **97.** Prior to the vesting of assets and liabilities of the NNPC in the
26 Management Company, the Minister may give the Board of Directors of the
27 NNPC directions in writing to ensure the proper transfer of the assets and
28 liabilities of the NNPC to the Management Company, and the Board of
29 Directors shall, without delay, comply with such directions.

1 98.-(1) Any employee of the NNPC transferred to the Management
2 Company in accordance with the provisions of this Act shall be transferred
3 to the service of Management Company on terms not less favourable than
4 those enjoyed by him immediately prior to the transfer.

Transfer of
employees to the
Management
Company and
conditions of
service of
transferred
employees

5 (2) The service rendered by an employee transferred pursuant to
6 this Act to the NNPC shall be deemed to be service with the Management
7 Company for the purpose of determining employment; related-entitlements
8 as specified by the relevant laws of employment in Nigeria.

9 (3) Until such time as conditions of service are drawn up by the
10 Management Company:

11 (a) the terms and conditions of service applicable to employees of
12 the NNPC shall continue to apply to every person transferred to the
13 Management Company as if every such person were still in the service of the
14 NNPC;

15 (b) an employee shall continue to contribute towards a pension he
16 was contributing to when he was in the employment of the NNPC; and

17 (c) the Management Company shall continue to contribute towards
18 a pension scheme to which the NNPC was contributing in respect of
19 employees in the employ of the NNPC prior to the date of transfer.

20 99.-(1) Stamp duty shall not be chargeable under the Stamp Duties
21 Act in respect of any transfer made or transaction entered into pursuant to
22 this Part on which, except for the exemption granted under this section,
23 stamp duty would have been payable and in particular, and without
24 derogation from the foregoing, no stamp duty shall be chargeable:

Exemption from
Stamp Duty &
other charges

25 (a) during the incorporation of the Management Company, and any
26 successor company created pursuant to section 6 of this Act or any
27 subsequent increase to their authorized share capital, prior to the transfer of
28 an interest to one or more private investors;

29 (b) in respect of any security issued in compliance with a transfer
30 order issued under the provision of this Act;

1 (c) where any convertible securities were issued in compliance with a
2 transfer order under this Act, in respect of the exercise of the conversion rights
3 attached to any such security; or

4 (d) in respect of any other transfer of rights and assets pursuant to this
5 Part.

6 (2) The Corporate Affairs Commission shall not charge any fees with
7 respect to the incorporation of any company pursuant to this Part or any
8 subsequent increase to their authorised share capital, prior to the transfer of an
9 interest to one or more private investors.

10 (3) Capital gains tax shall not be chargeable under the Capital Gains
11 Tax Act, in respect of any transfer made or transaction entered into pursuant to
12 this Part on which, except for the exemption granted under this section, capital
13 gains tax would have been payable.

Certain
exemption from
rates

14 **100.**-(1) Oil pipelines and other installations transferred to the
15 Management Company shall not be regarded as hereditaments or tenements to
16 be valued for rating purposes.

17 (2) For the purpose of this section, the expression "oil pipelines and
18 other installations" include but not limited to floating production, storage and
19 offloading vessels, oil rigs, refineries, processing plants, power generating
20 plants, pumping stations, tank farms and similar installations but shall not
21 include office or residential buildings.

22 (3) Except as provided in subsection (1) of this section, nothing in this
23 Act shall be deemed to exempt the Management Company from liability for
24 any tax, duty, rate, levy or other charge whatsoever, whether general or local;
25 provided that the Management Company shall not be liable to pay any such tax,
26 duty, rate, levy or charge unless every company involved in similar activities as
27 the Management Company is also liable for such payment.

Composition and
appointment of
the board

28 **101.**-(1) The Management Company shall be subject to the Code of
29 Corporate Governance of the Securities and Exchange Commission.

30 (2) The Minister shall cause the Articles of Association of the

1 Management Company to provide for the composition of the Board as
2 follows:

3 (a) a non-executive Chairman;

4 (b) the Managing Director of the Management Company who shall
5 possess relevant experience with at least 10 years' experience at a senior
6 management position in petroleum exploration and production company;

7 (c) Three other Executive Directors of the Management Company
8 who shall possess relevant petroleum exploration and production
9 experience with at least 10 years' experience at a senior management
10 position;

11 (d) Three non-Executive Directors provided that one of the non-
12 Executive Directors shall be a person with at least 10 years' experience in a
13 senior management position in an exploration & production company;

14 (e) A representative of the Ministry of Petroleum Resources who
15 shall not be below the rank of director.

16 (3) Notwithstanding the provisions of the Companies and Allied
17 Matters Act or any other enactment, the power of the shareholders to appoint
18 or remove directors, shall be subject to subsections (4) and (5) of this section
19 and the approval of the President.

20 (4) For the purpose of making appointments to the Board of
21 Directors, the shareholders shall constitute an independent committee ("the
22 Board Nomination Committee") of five persons with proven qualifications
23 and tested industry experience one of which shall include a representative of
24 the Ministry of Petroleum Resources who shall not be below the rank of
25 director, to identify and recommend highly qualified candidates for such
26 positions in a competitive and transparent manner.

27 (5) the two other non-Executive Directors to be appointed pursuant
28 to subsection (2) (d) of this section, shall not be appointed to the Board
29 unless such a person is a holder of a university degree or its equivalent in
30 engineering, geological sciences, economics, law, finance or related

	1	subjects and possesses at least 10 years' relevant experience.
Terms of office of members of the board	2	102. The Minister shall cause the Articles of Association of the
	3	Company to include the following;
	4	(1) An Executive member of the Board shall cease to be a Director of
	5	the Management Company if he ceases to be an employee of the company for
	6	any reason or if otherwise removed in accordance with the provisions of the
	7	Companies and Allied Matters Act.
	8	(2) The non-executive members of the Board may serve for an initial
	9	term of 4 years.
	10	(3) Upon the expiration of the initial term of any of the non-executive
	11	members of the Board appointed, such member may be eligible for
	12	appointment for another term of 4 years and no more.
Management and governance of the Management Company	13	103. Upon incorporation of the Management Company in pursuance
	14	of the provisions of this Act, the Management Company shall be organized and
	15	managed on the basis of the provisions of this Act and its Memorandum and
	16	Articles of Association.
Matters reserved for the Shareholders	17	104. The Minister shall cause the Articles of Association to provide
	18	that the Board of Directors of the Management Company shall submit the
	19	following matters to the annual general meeting:
	20	(a) plans for the coming year, as well as outlook for the intermediate
	21	term and significant changes in any of these;
	22	(b) main features of the budget for the coming year;
	23	(c) principles relating to engagement of managers; and
	24	(d) Annual Report and annual accounts in respect of the participating
	25	interests of the State.
Publication of annual report and annual accounts of the Management Company	26	105. The Board of Directors shall cause the annual reports and annual
	27	accounts submitted to the annual general meeting pursuant to the provisions of
	28	this Act to be published on its website and at least 3 widely circulating National
	29	Newspapers.

Protection of land
belonging to the
Management
Company

1 **106.-(1)** Land vested in the Management Company shall not be
2 liable to be acquired compulsorily under any enactment or law; and
3 notwithstanding anything in any other enactment or law, no mining
4 operations shall be carried on, in or under any land vested in the
5 Management Company or any land over which the Management Company
6 is entitled to rights of support for the benefit of lands so vested except with
7 the prior consent in writing of the Minister.

8 (2) For the purpose of this section, "land" includes any land under
9 water beyond the territorial waters of Nigeria to which Nigeria is for the time
10 being entitled to any exclusive rights.

11 PART 7 - NIGERIA PETROLEUM RESEARCH CENTRE

Establishment of
the Nigerian
Petroleum Research
Centre

12 **107.-(1)** There is established a body to be known as the Nigeria
13 Petroleum Research Centre ("the Centre") which shall be a body corporate
14 with perpetual succession and a common seal.

15 (2) The Centre shall have power to acquire, hold and dispose of
16 property, sue and be sued in its own name and subject to this Act perform all
17 acts that corporate bodies may perform by law.

18 (3) The corporate headquarters of the Centre shall be in Port
19 Harcourt with offices in such other place as the Supervisory Council may
20 determine with the approval of the Minister.

21 **108.** The functions of the Centre shall be to:

Functions of the
Centre

22 (a) carry out research in all areas pertaining to the petroleum
23 industry, but primarily in the areas of exploration and production and
24 process technology, with the primary focus on the need to develop:

25 (i) new technologies; and

26 (ii) design capabilities suitable for the needs of Nigeria;

27 (b) carry out research and advise the Minister and the Directorate
28 on matters relating to exploration and production outside Nigeria;

29 (c) advise the Minister, the Directorate and the Commission, as the
30 case may be, on:

- 1 (i) the technical evaluation of any acreages whatsoever;
- 2 (ii) the value of any licenses or leases, particularly during the bidding
3 round process.
- 4 (d) collaborate with the Commission and undertake analyses and re-
5 evaluation of any data and information that may be provided by operators;
- 6 (e) domesticate and acquire patents on any new technologies that may
7 be discovered or invented and market these new technologies to any person,
8 subject to the approval of the Minister;
- 9 (f) undertake routine analyses and consultancies for all
10 customers/operators on a commercial basis;
- 11 (g) organise training courses, workshops, seminars and conferences
12 for the purpose of promoting the functions of the Centre, capacity building,
13 increasing Nigerian content and sensitising the government and people of
14 Nigeria on issues relating to the petroleum industry;
- 15 (h) collect and collate independent data from Research Institutes and
16 Universities locally and abroad;
- 17 (i) operate data prying services for other regulatory agencies,
18 government and potential investors in return for fees chargeable at commercial
19 rates;
- 20 (j) collate and review all literature and data on the industry emanating
21 from universities and research institutes at home and abroad and downsize
22 these into a data bank;
- 23 (k) operate a comprehensive data bank, including seismic data, which
24 data shall be made available to the Directorate and the Commission on request,
25 and to operators (including the National Oil Company) on purchase;
- 26 (l) carry out environmental impact assessments of any projects in the
27 petroleum industry for any person in return for fees at commercial rates;
- 28 (m) advise government on policy formulation on all issues that are
29 relevant to increase Nigerian Content levels in the Nigerian petroleum
30 industry;

1 (n) collaborate with other research institutes within and outside the
2 country on activities of common interest;

3 (o) carry out research or investigation into the availability of local
4 raw materials for use in the petroleum industry;

5 (p) carry out research on engineering activities as they relate to the
6 petroleum industry and for operators, either jointly or in collaboration;

7 (q) where necessary and as requested by the Directorate or the
8 Commission, to collect samples at well-sites and to carry out analyses, either
9 independently or jointly with operators of the license or lease, as the case
10 may be;

11 (r) five years after acquisition, obtain from the operator all seismic
12 data obtained from any license or lease in Nigeria; and

13 (s) to promote efficient, sustainable exploration of hydrocarbons
14 in the frontier basins of Nigeria;

15 (t) evaluate all unassigned concessions in Nigeria;

16 (u) undertake activities to stimulate exploration interest of local
17 and international oil Companies towards increasing Nigeria's oil and gas
18 reserves;

19 (v) regulate petroleum exploration activities in all unassigned
20 frontier acreages in Nigeria held by the Directorate;

21 (w) identify opportunities and increase information about the
22 petroleum resource base within all frontier acreages in Nigeria, in a cost
23 effective manner and with demonstrable technical and operational
24 excellence;

25 (x) develop exploration strategies and portfolio management for
26 the exploration of the unassigned frontier acreages in Nigeria;

27 (y) promote and stimulate the interest of petroleum exploration and
28 production companies in all unassigned frontier exploration acreages in
29 Nigeria;

30 (z) provide exploration related services to Government and its

- 1 Agencies on request;
- 2 (aa) undertake any studies and analyses on all unassigned frontier
- 3 acreages in Nigeria including:
- 4 (i) aeromagnetic and gravity data interpretation;
- 5 (iii) Sedimentological studies of any wells previously drilled in the
- 6 frontier acreages using old and newly generated data;
- 7 (iv) high resolution biostratigraphic analysis and the preparation of
- 8 any photocatalogues;
- 9 (v) sequence stratigraphic analysis, petrophysical analysis, petroleum
- 10 geochemical analysis and any other analysis;
- 11 (vi) petrophysical and dipmeter sedimentology studies;
- 12 (vii) petrography and mineralogical studies;
- 13 (viii) digitization of all well logs;
- 14 (ix) scanning, vectorization and workstation interpretation of any
- 15 seismic sections;
- 16 (x) scanning, vectorization and workstation interpretation of any
- 17 seismic sections;
- 18 (xi) basin modelling.
- 19 (xii) do any other matters incidental to the functions listed in this
- 20 section.
- 21 **109.** The Centre shall have power to:
- 22 (a) enter into contracts with any person which in the opinion of the
- 23 Centre will facilitate the discharge or exercise of its duties, functions or powers
- 24 under this Part;
- 25 (b) charge fees at commercial rates for its services to any government
- 26 or person;
- 27 (c) access to license, lease, contract or permit areas, well-sites,
- 28 storage depots, refineries, the frontier acreages, and any other places where
- 29 activities relating to the petroleum industry are carried out, for purposes of

Powers of the
Centre

1 collecting samples for independent analyses and for the Centre's research
2 and frontier services;

3 (d) do such other things as are necessary and expedient for the
4 effective and full discharge of its functions under this Chapter.

5 **110.-(1)** There is established for the Centre a Supervisory Council
6 ("the Supervisory Council") which shall consist of:

Supervisory
Council

7 (a) a Chairman to be appointed by the President;

8 (b) one representative not below the rank of a Director from the:

9 (i) Nigerian Petroleum Commission;

10 (ii) Nigerian Petroleum Directorate;

11 (iii) Ministry of Science and Technology;

12 (iv) Petroleum Technology Development Fund;

13 (c) one representative of the Nigerian National Oil Company
14 Limited not below the rank of a General Manager;

15 (d) one representative of oil exploration and production companies
16 operating in Nigeria;

17 (e) two petroleum scientists appointed on the recommendation of
18 the Council of Registered Engineers of Nigeria and the Council of Nigerian
19 Mining and Geosciences Society;

20 (f) one representative of the Nigerian Academy of Sciences;

21 (g) three Directors who are full time staff of the Commission, to be
22 appointed to the Board by the President; and

23 (h) the Director-General of the Centre.

24 (2) The Chairman of the Supervisory Council shall be a person
25 knowledgeable in the petroleum industry with cognate experience of not
26 less than 15 years.

27 (3) A person appointed under subsection 1.(a), (d), (e) and (f) of this
28 section shall hold office for four years in the first instance subject to re-
29 appointment for another period of four years only.

30 (4) Members of the Supervisory Council shall be paid such

1 remuneration and allowances as may be determined from time to time by the

2 Minister.

3 (5) The proceedings of the Supervisory Council and other ancillary
4 matters shall be regulated by the Fifth schedule to this Act.

Powers of the
Supervisory
Council

5 **111.-(1)** The Supervisory Council shall be responsible for
6 determining the overall policy and programmes of the Centre and for ensuring
7 the implementation of such policies and programmes in accordance with the
8 functions of the Centre.

9 (2) Without prejudice to subsection (1) of this section, the
10 Supervisory Council shall:

11 (a) approve the research and training programmes of the Centre;

12 (b) determine the fees to be paid for research, consulting, training and
13 other services that may be offered by the Centre;

14 (c) promote any other activity that in the opinion of the Supervisory
15 Council will help to achieve the objectives of the Centre.

Director-General
of the Centre

16 **112.-(1)** There shall be an officer of the Centre to be known as the
17 Director-General, who shall be appointed by the President.

18 (2) The Director-General shall be an accomplished researcher of
19 national and international repute in the field of engineering, physical sciences
20 or geosciences, with a minimum of fifteen years cognate knowledge and
21 experience in matters pertaining to the petroleum industry.

22 (3) The Director-General shall be the chief executive and accounting
23 officer of the Centre and shall be responsible for running the day-to-day affairs
24 of the Centre.

25 (4) The Director General shall have the status of a permanent
26 secretary in the Public service of the Federation.

Tenure,
Remuneration
and Conditions
of Service

27 **113.-(1)** The Director-General shall hold office for five years in the
28 first instance subject to re-appointment for another period of five years only.

29 (2) The remuneration and conditions of service of the Director-
30 General shall be at a level sufficient to attract qualified professionals within

1 research centres operated by upstream companies operating within the oil
2 industry and shall be determined in accordance with guidelines prescribed
3 by the Minister.

4 **114.** No person shall be appointed as Director General or member Disqualification
5 of the Supervisory Council unless he or she:

6 (a) is a Nigerian citizen;

7 (b) has not:

8 (i) been adjudged or declared bankrupt or insolvent; or

9 (ii) made an assignment to, or arrangement or composition with his
10 creditors which has not been rescinded or set aside;

11 (iii) been declared to be of unsound mind;

12 (iv) been convicted of an offence involving fraud or dishonesty; or

13 (v) been disqualified by a competent authority from carrying out
14 any assignment, responsibility or function in his or her professional
15 capacity.

16 (c) has not been disqualified by the Securities and Exchange
17 Commission from holding a board appointment in any public company.

18 **115.** The office of the Director General or member of the Vacation of
Office and
Termination
19 Supervisory Council shall become vacant:

20 (a) three months after giving notice in writing to the President of
21 his or her resignation;

22 (b) if he or she becomes disqualified in accordance with the
23 provisions of this Act; or

24 (c) on the expiration of his or her appointment.

25 **116.**-(1) There shall also be appointed by the Supervisory Council, Directors of the
Centre
26 Directors who shall assist the Director-General in managing and
27 discharging the responsibilities of the Centre.

28 (2) The persons to be appointed Directors shall be accomplished
29 researchers of national and international repute in the field of physical
30 sciences, engineering or geosciences with demonstrable knowledge and

1 experience in matters pertaining to the oil and gas industry.

2 (3) The remuneration, tenure and conditions of service of the
3 Directors shall be at a level sufficient to attract qualified professionals within
4 the oil industry and shall be determined in accordance with guidelines
5 prescribed by the Minister.

Other Staff

6 **117.**-(1) The Centre may, from time to time, appoint such
7 professionals experienced in the petroleum industry and other persons as staff
8 of the Centre to assist it in the performance of its functions under this Act.

9 (2) Staff of the Centre appointed under subsection (1) of this section
10 shall be appointed on such terms and conditions as the Centre may prescribe.

11 (3) Staff of the Centre shall be public officers as defined in the
12 Constitution of the Federal Republic of Nigeria, 1999.

13 (4) For the purpose of this section, appointment shall include
14 secondment, transfer and contract appointments.

Tenure,
Remuneration
and Conditions
of Service Staff

15 **118.** The tenure, remuneration and conditions of service of staff of
16 the Centre shall be at a level sufficient to attract qualified professionals within
17 the oil industry and shall be determined in accordance with guidelines
18 prescribed by the Minister on the recommendations of the Supervisory
19 Council.

Provision of
library facilities

20 **119.** The Centre shall provide and maintain a library composing
21 books, publications and other educational materials as may be approved by the
22 Supervisory Council for the advancement of knowledge of petroleum matters;
23 for research purposes, and for other purposes concerned with the objects and
24 functions of the Centre.

Pension

25 **120.**-(1) Service in the Centre shall be approved service for the
26 purpose of the Pension Reforms Act and accordingly, officers and other
27 persons employed in the Centre shall be entitled to pensions, and other benefits
28 as prescribed in the Pension Reforms Act.

29 (2) Subsection (1) of this section does not prohibit the Centre from
30 appointing a person to any office on terms that preclude the grant of a pension

2016

Petroleum Industry Bill, 2016

C 5827

1 other retirement benefits in respect of that office: (2)

2 (3) In the application of the Pension Reforms Act, Cap B4, Laws of

3 the Federation of Nigeria, 2004 to the Centre, any power exercisable under

4 the Act by a Minister or other authority of the Government of the Federation,

5 other than the power to make regulations is hereby vested in and shall be

6 exercisable by the Centre and not by any other person or authority:

Centre

7 (1) The Centre shall not later than September in each year,

8 present to the Minister, a budget showing the proposed income and

9 expenditure of the Centre in respect of the next succeeding financial year,

10 insofar as the amount so budgeted does not exceed the total amount

11 accruable to the Centre from its sources of funding in any financial year.

Financial Provisions of the Centre

12 (2) The Centre may during a financial year prepare and present to

13 the Minister, a supplementary budget relating to expenditures which were

14 inadequately represented in the annual budget due to unforeseen

15 circumstances.

Centre

16 (3) The Centre may vary a budget prepared under this section

17 insofar as such variation does not increase the total amount of the

18 expenditure provided for in the original budget.

19 (4) The financial year of the Centre shall be for a period of twelve

20 calendar months commencing on the 1st of January in each year or such

21 other period as the Minister may decide.

Centre

22 (1) The Centre shall maintain a fund from which both the

23 capital and recurrent expenditure of the Centre shall be defrayed and which

24 shall consist of

Funds of the Centre

25 (a) an amount of fiscalized crude from the account of the

26 Directorate specifically set aside for the collection of fiscalized crude on

27 behalf of the Institutions that is sufficient to fund the complete budget, or an

28 authorized portion of the budget of the Centre in accordance with the

29 provisions of this Act;

Centre

30 (b) money appropriated for that purpose from time to time by the

National Assembly; and

to render a member of the Centre a member of the Centre for any act or omission in relation to subsection (1) of this section towards the disbursement of all its expenditure, including the day-to-day administration of its operations and the performance of its functions under this Act.

Power to accept gifts 7 **123.** The Centre may accept gifts of money or other property, upon such terms and conditions as may be specified by the person or organisation making the gift provided such terms and conditions are consistent with the objectives and functions of the Centre under this Act.

Borrowing powers 11 **124.** The Centre may, with the consent of the Minister and the approval of the Supervisory Council, borrow money required in the exercise of its functions on such terms and conditions as the Supervisory Council may prescribe.

Annual Budget 15 **125.** The annual budget of the Centre shall be considered by the Supervisory Council and thereafter placed before the Minister for approval.

Accounts and Audit 17 **126.** The Centre shall keep proper accounts of its income and expenditure in respect of each year and shall cause its accounts to be audited within six months after the end of each year by auditors appointed in accordance with the guidelines published by the Auditor-General of the Federation.

Mid-year and Annual Reports 22 **27.-(1)** The Centre shall submit to the President a mid-year report of its operations and finances not later than 31st July of each year and an annual report of its operations, performance and audited financial report of the preceding year not later than 31st July of the following year.

Summary of Annual Report 26 **(2)** A summary of the annual report and audited financial report of the Centre shall be published in the website of the Centre and in not less than three widely circulating newspapers in every geopolitical zone of the country for public notice not later than 31st July of each year.

(2) Notwithstanding the provisions of subsection (1) of this section, the Centre may employ such number of staff as may be determined by the Supervisory Council.

1 **128.**-(1) Any suit or proceedings against the Centre, a member of
2 the Supervisory Council or any employee of the Centre for any act, omission
3 or default in respect of its functions and powers under this Act or any other
4 enactment shall be brought within twelve months after the act, neglect or
5 default complained of, or in the case of a continuance of damage or injury,
6 within twelve months after such damage or injury may have ceased.

Restrictions on
Legal Proceedings

7 (2) No suit shall commence against the Centre before the
8 expiration of a period of one month after written notice of intention to
9 commence the suit shall have been served upon the Centre by the intending
10 plaintiff or his agent.

11 (3) The notice shall clearly and explicitly state:

12 (a) the cause of action;

13 (b) the particulars of the claim;

14 (c) the name, place of abode and address for service of the
15 intending plaintiff; and

16 (d) the relief which is being claimed.

17 **129.** The notice referred to under section 128 of this Act and any
18 other process required or authorized to be served upon the Centre under the
19 provisions of this Act or any other enactment may be served by:

Service of
Documents

20 (a) delivering the same to the Director General or any other
21 Director of the Centre; or

22 (b) sending it by registered post addressed to the Director General
23 at the head office of the Centre.

24 **130.**-(1) Every member of the Supervisory Council and every
25 employee for the time being of the Centre shall be indemnified out of the
26 assets of the Centre against any liability incurred in defending any
27 proceeding against the Centre, whether civil or criminal, if such proceedings
28 are brought against the person in his or her capacity as a member of the
29 Supervisory Council or employee.

Indemnity of
Supervisory
Council and
Employees

30 (2) Notwithstanding the provisions of subsection (1) of this

1 section, the Centre shall not indemnify any member of the Supervisory
2 Councilor employee of the Centre for any liability incurred as a result of the
3 wilful negligence of the member or employee, as the case may be.

4 PART 8 - REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS

Repeals

5 **131.**-(1) From the Effective Date, the Petroleum Products Pricing
6 Regulatory Agency (Establishment) Act;

7 (2) The Nigerian National Petroleum Corporation Act CAP N123,
8 Laws of the Federation of Nigeria, 2004, Nigerian National Petroleum
9 Corporation (Projects) Act CAP N124Laws of the Federation of Nigeria,
10 2004and Nigerian National Petroleum Corporation Amendment Act N 123
11 shall be deemed to be repealed on the date that the Minister signifies by legal
12 notice in the Gazette that the assets and liabilities of the NNPC are fully vested
13 in successor entities.

Savings provisions

14 **132.**-(1) Any licence, lease, certificate, authority or permit which was
15 issued by the Department of Petroleum Resources and which had effect
16 immediately before the commencement of this Act shall continue to have
17 effect, mutatis mutandis, for the remainder of its period of validity as if it had
18 been issued by the Commission.

19 (2) The Minister shall set forward a clear transition plan within 30
20 days of the passage of the Act to prevent disruption of industry operations.

21 (3) Within three months from the Effective Date, the Minister on the
22 advice of the Commission or the NNPC, as the case may be, may make any
23 further transitional and savings provisions as are consistent with the
24 transitional and savings provisions in this Act.

Transfer of
staff, etc.

25 **133.**-(1) Upon the vesting of assets and liabilities of the Department
26 of Petroleum Resources in the Commission, the Minister shall make an order in
27 writing in which he shall give directions to the management of the Department
28 of Petroleum Resources for the transfer of employees of the Department of
29 Petroleum Resources to the Commission and the Management of the
30 Department of Petroleum Resources shall, without delay, comply with the

1 directions in such order.

2 (2) Upon the vesting of assets and liabilities of the Petroleum

3 Products Pricing Regulatory Agency in the Commission, the Minister shall

4 make an order in writing in which he shall give directions to the Board of the

5 Petroleum Products Pricing Regulatory Agency for the transfer of

6 employees of the Petroleum Products Pricing Regulatory Agency to the

7 Commission and the Board of Directors shall, without delay, comply with

8 the directions in such order.

9 (3) Any transfer of services by virtue of the provisions of

10 subsections (1) and (2) of this section shall be regarded as continuous for the

11 purposes of pension and gratuity.

12 134.-(1) Every person whose service has been transferred to the

13 Commission from the Department of Petroleum Resources or from the

14 Petroleum Products Pricing Regulatory Agency, in pursuance of section 133

15 of this Act, as the case may be, shall be deemed to be an employee of the

16 Commission with effect from the date of transfer and shall be deemed to

17 have ceased to be in the employment of the Department of Petroleum

18 Resources or the Petroleum Products Pricing Regulatory Agency forthwith.

19 (2) Every person whose service has been transferred from the

20 NNPC to the Management Company in pursuance to the provisions of this

21 Act or to the National Oil Company in pursuance to the provisions of this

22 Act, as the case maybe, shall be deemed to be an employee of the

23 Management Company or the National Oil Company, as the case may be,

24 with effect from the date of transfer and shall be deemed to have ceased to be

25 in the employment of the NNPC forthwith.

26 135.-(1) The provisions of this section shall apply to:

27 (a) all contracts or other instruments subsisting before the Effective

28 Date entered into by the Nigerian National Petroleum Commission and the

29 Department of Petroleum Resources in relation to its petroleum operations;

30 (b) all contracts or other instruments subsisting before the

Cessation of employment t

Application of subsisting contracts

- 1 Effective Date entered into by the Petroleum Products Pricing Regulatory
- 2 Agency.
- 3 (2) By virtue of this Act there is vested in the Commission as from the
- 4 Effective Date and without further assurance all assets, funds, resources and
- 5 other moveable or immovable property which immediately before the
- 6 Effective Date were vested in the Nigerian National Petroleum Commission or
- 7 the Department of Petroleum Resources.
- 8 (3) Any proceedings or cause of action pending or existing or which
- 9 could have been taken by or against the Department of Petroleum Resources
- 10 immediately before the Effective Date in respect of any such right, interest,
- 11 obligation or liability of the Nigerian National Petroleum Commission or the
- 12 Department of Petroleum Resources may be commenced, continued or
- 13 enforced or taken by or against the Commission as if this Act had not been
- 14 made.
- 15 (4) By virtue of this Act, there is vested in the Commission as from the
- 16 Effective Date and without further assurance all
- 17 assets, funds, resources and other moveable or immovable property which
- 18 immediately before the Effective Date were vested and held by the Petroleum
- 19 Products Pricing and Regulatory Authority.
- 20 (5) As from the Effective Date:
- 21 (a) the rights, interest, obligations and liabilities of the Petroleum
- 22 Products Pricing and Regulatory Authority existing immediately before the
- 23 Effective Date under any contractor instrument at law or in equity which shall
- 24 have been held on behalf of or have accrued to or have been incurred for its own
- 25 benefit or use, shall by virtue of this Act be assigned to and vested in the
- 26 Commission;
- 27 (b) any such contract or instrument as is mentioned in subsection
- 28 (5)(a) of this section, shall be of the same force and effect against or in favour of
- 29 the Commission and shall be enforceable as fully and effectively as if instead of
- 30 the Petroleum Products Pricing and Regulatory Authority, the Commission had

interposition

1 been named therein or had been a party thereto; and

2 (c) any proceeding or cause of action pending or existing or which
3 could have been taken by or against the Petroleum Products Pricing and
4 Regulatory Authority immediately before the Effective Date in respect of
5 any such rights, interest, obligation or liability of the Petroleum Products
6 Pricing and Regulatory Authority, may be commenced, continued or
7 enforced or taken by or against the Commission as if this Act had not been
8 made.

9 (5) As from the Effective Date:

10 (a) the rights, interest, obligations and liabilities of the Department
11 of Petroleum Resources existing immediately before the Effective Date
12 under any contract or instrument at law or in equity which shall have been
13 held on behalf of or have accrued to or have been incurred for its own benefit
14 or use, shall by virtue of this Act be assigned to and vested in the
15 Commission;

16 (b) any such contract or instrument as is mentioned in subsection
17 (6)(a) of this section, shall be of the same force and effect against or in favour
18 of the Commission and shall be enforceable as fully and effectively as if
19 instead of the Department of Petroleum Resources, the Commission had
20 been named therein or had been a party thereto; and

21 (c) Any proceeding or cause of action pending or existing or which
22 could have been taken by or against the Department of Petroleum Resources
23 immediately before the Effective Date in respect of any such right, interest,
24 obligation or liability of the Department of Petroleum Resources may be
25 commenced, continued or enforced or taken by or against the Commission
26 as if this Act had not been made.

27 136. In this Act unless the context otherwise requires:

28 "Authorisation" means any authorisation issued by the Directorate for any
29 activity in the petroleum industry;

30 "Board" means the governing board of any of the entities that is the subject

Interpretation

- 1 matter of the Part within which the word has been used, unless it is specifically
2 stated otherwise;
- 3 "Budget" means estimates of the revenues and expenditure of the Federation
4 for the next following financial year which the President shall cause to be
5 prepared and laid before each House of the National Assembly at any time in
6 each financial year pursuant to Section 81 (1) of the Constitution of the Federal
7 Republic of Nigeria;
- 8 "Bureau of Public Enterprises" means the Bureau of Public Enterprises as
9 provided for under the Public Enterprises (Privatisation and
10 Commercialization) Act CAPP38, Laws of the Federation of Nigeria, 2004;
- 11 "Company" means any entity incorporated under any law in force in Nigeria or
12 elsewhere;
- 13 "Companies and Allied Matters Act" means the Companies and Allied Matters
14 Act CAPC20, Laws of the Federation of Nigeria, 2004;
- 15 "Consolidated Revenue Fund" means the Consolidated Revenue Fund created
16 by section 80 of the Constitution of the Federal Republic of Nigeria 1999;
- 17 "Constitution" means the Constitution of the Federal Republic of Nigeria
18 1999;
- 19 "Court" means Federal High Court established by section 249 of the
20 Constitution of the Federal Republic of Nigeria 1999;
- 21 "Department of Petroleum Resources" means the Department of Petroleum
22 Resources under the Ministry of Petroleum Resources;
- 23 "Directorate" means the "Oil and Gas Directorate" as provided for in Part 3 of
24 this Act;
- 25 "Effective Date" means the commencement date on which this Act comes into
26 force;
- 27 "Federal Executive Council" means the Federal Executive Council stated in
28 section 144(5) of the Constitution of the Federal Republic of Nigeria 1999;
- 29 "Federation Account" means the Federal Account stated in section 162 of the
30 Constitution of the Federal Republic of Nigeria 1999;

- 1 "Fiscal Responsibility Act' means the Fiscal Responsibility Act 2007;
- 2 "Frontier acreages" means any or all licences or leases located in an area
3 defined as frontier in a regulation issued by the Commission;
- 4 "Gazette" means the Official Gazette of the Government;
- 5 "Government" means the Federal Government of Nigeria;
- 6 "Management Company" means the Nigerian Petroleum Assets
7 Management Company to be incorporated further to the provisions of
8 section 6 of this Act;
- 9 "Minister" means the Minister in charge of petroleum resources and
10 overseeing the petroleum industry in Nigeria;
- 11 "Ministry" means the Ministry of Petroleum Resources;
- 12 "Ministry of Environment means the federal ministry in charge of
13 environmental matters;
- 14 "Ministry of Finance" means the federal ministry in charge of finance
15 matters; Ministry of Finance Incorporated' means the Ministry of Finance
16 Incorporated that manages the investments of the Federal Government;
- 17 "National Oil Company" means the National Oil Company to be
18 incorporated further to the provisions of section 6 of this Act;
- 19 "National Salaries, Incomes and Wages Commission" means the National
20 Salaries, and Wages Commission established by section 1 of the National
21 Salaries, Incomes and Wages Commission Act CAP N72, Laws of the
22 Federation of Nigeria, 2004;
- 23 "National strategic reserve" means the reserve of petroleum products kept in
24 certain storage depots and facilities by the Government or on behalf of the
25 Government to provide for emergency;
- 26 "Nigerian National Petroleum Corporation" or the "NNPC" means the
27 Nigerian National Petroleum Corporation established by section 1 of the
28 Nigerian National Petroleum Corporation Act CAP N123, Laws of the
29 Federation of Nigeria, 2004;
- 30 "Nigerian Police" means the Nigeria Police Force established under section

- 1 3 of the Police Act CAPP19, Laws of the Federation of Nigeria, 2004;
- 2 "Pensions Reforms Act means the Pensions Reforms Act 2014;
- 3 "Permanent Secretary" means the Permanent Secretary having supervision
4 over the departments of government under the Minister;
- 5 "Petroleum" means hydrocarbons and associated substances as exist in its
6 natural state in strata, and includes crude oil, natural gas, condensate, and
7 mixtures of any of them, but does not include coal, bitumen and tar sands;
- 8 "Nigerian Petroleum Commission" means the Nigerian Petroleum
9 Commission established under Part 4 of this Act;
- 10 "Petroleum operations" means upstream, midstream and downstream
11 petroleum operations;
- 12 "Petroleum Pricing and Product Regulatory Agency" means the Petroleum
13 Pricing and Product Regulatory Agency established under section 1 of the
14 "Petroleum Pricing and Product Regulatory Agency (Establishment) Act CAP
15 P43, Laws of the Federation of Nigeria, 2004;
- 16 "President means President of the Federal Republic of Nigeria;
- 17 "Public hearing" means an organized forum for the discussion of issues relating
18 to a Regulation or decision that is to be made by the Commission for the
19 purpose of receiving public or stakeholders input;
- 20 "Permit" means an official certificate of permission to undertake an activity
21 issued by the Commission;
- 22 "Production Sharing Contract means a contract between the NNPC and a
23 contractor as defined in the Deep Offshore and Inland Basin Production
24 Sharing Contract Acts (as amended)CAP D3,Laws of the Federation of
25 Nigeria, 2004;
- 26 "Public Enterprises Privatisation and Commercialisation Act means the Public
27 Enterprises (Privatisation and Commercialisation) Act CAP P38, Laws of the
28 Federation of Nigeria, 2004;
- 29 "Public Procurement Act" means Public Procurement Act 2007;
- 30 "Regulations" mean rules or order having force of law issued by the competent

1 authority in accordance with the provisions of this Act or any other
2 enactment;

3 "Third party access" means the legal requirement for owners of certain
4 infrastructure facilities to grant access to those facilities to parties other than
5 their own customers, usually competitors in the provision of the relevant
6 services, on terms stipulated in this Act or regulations made pursuant to this
7 Act.

8 "Trustee Investment Act" means the Trustee Investment Act CAP T22, Laws
9 of the Federation of Nigeria, 2004.

10 137. This Bill may be cited as the Petroleum Industry Bill, 2016.

Short Title

11 FIRST SCHEDULE

12 *Section 7*

13 *Right of Pre-emption*

14 1. The Minister shall have the right to require the holder of any
15 licence or lease granted under this Act or any other enactment (referred to in
16 this Schedule as the licensee or lessee") to:

17 (a) provide for the Government, to the extent of any refinery or
18 petroleum products storage capacity he may have in Nigeria, petroleum
19 products complying with specification given by the Minister; or

20 (b) deliver to any person holding a licence to operate a refinery,
21 such quantity and quality of crude oil as may be specified by the Minister to
22 the extent that the licensee or lessee has crude oil of that quantity and quality.

23 2. The licensee or lessee shall use his best endeavours to increase
24 so far as possible with his existing facilities, the supply of petroleum or
25 petroleum products, or both, for the Government to the extent required by
26 the Minister.

27 3. The licensee or lessee shall, with all reasonable expedition and
28 so as to avoid demurrage on the vessels conveying the same, use his best
29 endeavours to deliver all petroleum or petroleum products purchases by the
30 Minister under the right of pre-emption in such quantities, and at such

1 places of shipment or storage in Nigeria, as may be determined by the Minister.

2 4. If a vessel employed to carry petroleum or petroleum products
3 pursuant to paragraph 3 of this Schedule is detained on demurrage at the port of
4 loading, the licensee or lessee shall pay the amount due for demurrage
5 according to the terms of the charter-party or the rates of loading previously
6 agreed by the licensee or lessee, unless the delay is due to causes beyond the
7 control of the licensee or lessee.

8 5. Any dispute which may arise as to whether a delay is due to causes
9 beyond the control of the licensee or lessee shall be settled by agreement
10 between the Minister and the licensee or lessee or, in default of agreement, by
11 arbitration.

12 6. The price to be paid for petroleum or petroleum products taken by
13 the Minister in exercise of the right of pre-emption shall be:

14 (a) the reasonable value at the point of delivery, less discount to be
15 agreed by both parties; or

16 (b) if no such agreement has been entered into prior to the exercise of
17 the right of pre-emption, a fair price at the port of delivery to be settled by
18 agreement between the Minister and the licensee or lessee or, in default of
19 agreement, by arbitration.

20 7. To assist in arriving at a fair price for the purposes of paragraph
21 6(b) of this Schedule, the licensee or lessee shall, if the Minister so requires:

22 (a) furnish for the confidential information of the Minister particulars
23 of quantities, descriptions and prices of petroleum or petroleum products sold
24 to other customers and of charters or contracts entered into for their carriage;
25 and

26 (b) exhibit original or authenticated copies of the relevant contracts or
27 charter-parties.

28 8. The Minister may take control of any works, plants or premises of
29 the licensee or lessee and if he does so, the licensee or lessee and his servants or

1 agents shall conform to and obey all directions issued by the Minister or on
2 his behalf.

3 9. Reasonable compensation shall be paid to the licensee or lessee
4 for any loss or damage caused to him by reason of the exercise by the
5 Minister of the powers conferred by paragraph 8 of this Schedule.

6 10. Any compensation payable under paragraph 9 of this Schedule
7 shall be settled by agreement between the Minister and the licensee or lessee
8 or, in default of agreement, by arbitration.

9 SECOND SCHEDULE

10 *Section 10 (4)*

11 SUPPLEMENTARY PROVISIONS RELATING TO THE GOVERNING BOARD
12 OF THE DIRECTORATE

13 *Proceeding of the Governing Board*

14 1. Subject to this Act and section 27 of the Interpretation Act, the
15 Governing Board shall have the power to regulate its proceedings and may
16 make standing orders with respect to the holding of its meetings, and those
17 of its committees, the notice to be given, the keeping of minutes of its
18 proceedings, the custody and production for inspection of such minutes and
19 such other matters as the Governing Board may, from time to time,
20 determine.

21 2.-(a) There shall be at least one ordinary meeting of the Governing
22 Board in every quarter of the year and subject thereto, the Governing Board
23 shall meet whenever it is summoned by the Chairman and if the Chairman is
24 requested to do so by notice given to him by not less than three other
25 members, he or she shall summon a meeting of the Governing Board to be
26 held within fourteen days from the date on which the notice is given;

27 (b) Every meeting of the Governing Board shall be presided over
28 by the Chairman and if the Chairman is unable to attend a particular meeting,
29 the members present at the meeting shall elect one of their numbers to
30 preside at the meeting.

1

Miscellaneous

2

11. The fixing of the seal of the Directorate shall be authenticated by the signature of the Secretary or some other person authorized generally by the Governing Board to act for that purpose.

5

12. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of Directorate by the Director-General or any person generally or specially authorized to act for that purpose by the Governing Board.

10

13. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Directorate shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been signed and sealed.

14

14. The validity of any proceedings of the Governing Board or its committees shall not be affected by:

16

(a) any vacancy in the membership of the Governing Board or its committees; or

18

(b) reason that a person not entitled to do so took part in the proceedings; or

20

(c) any defect in the appointment of a member.

21

15. Any member of the Governing Board and any person holding office on a committee of the Governing Board, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Governing Board or a committee thereof:

25

(a) shall forthwith disclose his interest to the Governing Board or committee, as the case may be; and

27

16.-(a) shall not vote on any question relating to the contract or arrangement.

28

1 THIRD SCHEDULE

2 *Section 41 (9)*

3 SUPPLEMENTARY PROVISIONS RELATING TO THE GOVERNING BOARD

4 OF THE COMMISSION

5 *Proceeding of the Governing Board*

6 1. Subject to this Act and section 27 of the Interpretation Act, the
7 Governing Board shall have the power to regulate its proceedings and may
8 make standing orders with respect to the holding of its meetings, and those of
9 its committees, the notice to be given, the keeping of minutes of its
10 proceedings, the custody and production for inspection of such minutes and
11 such other matters as the Governing Board may, from time to time, determine.

12 2.-(a) There shall be at least one ordinary meeting of the Governing
13 Board in every quarter of the year and subject thereto, the Governing Board
14 shall meet whenever it is summoned by the Chairman and if the Chairman is
15 requested to do so by notice given to him by not less than three other members,
16 he or she shall summon a meeting of the Governing Board to be held within
17 fourteen days from the date on which the notice is given;

18 (b) Every meeting of the Governing Board shall be presided over by
19 the Chairman and if the Chairman is unable to attend a particular meeting, the
20 members present at the meeting shall elect one of their numbers to preside at
21 the meeting.

22 3. The quorum at the meeting of the Governing Board shall consist of
23 the Chairman (or in an appropriate case, the person presiding at the meeting
24 pursuant to paragraph 2 of this Schedule) and the majority of the other
25 members at least two of whom shall be members appointed pursuant to section
26 41 (3) of this Act.

27 4. The Governing Board shall meet for the conduct of its business at
28 such places and on such days as the Chairman may appoint.

29 5. A question put before the Governing Board at a meeting shall be
30 decided by consensus, and where this is not possible, by a majority of the votes

1 of the members present and voting.

2 6. The Chairman shall, in the case of an equality of votes, have the
3 casting vote in addition to his deliberative vote.

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

9 *Committees*

10 8. The Governing Board may appoint one or more committees to
11 carry out on behalf of the Governing Board such of its functions as the
12 Governing Board may determine and report on any matter with which the
13 Governing Board or Commission is concerned.

14 9. A committee appointed under this Schedule shall be presided
15 over by a member of the Governing Board and consist of such number of
16 persons (not necessarily all members of the Governing Board) as may be
17 determined by the Governing Board, and a person other than a member of
18 the Governing Board shall hold office on the committee in accordance with
19 the terms of his appointment.

20 10. A decision of a committee of the Governing Board shall be of
21 no effect until it is confirmed by the Governing Board.

22 *Miscellaneous*

23 11. The fixing of the seal of the Commission shall be authenticated
24 by the signature of the Secretary or some other person authorized generally
25 by the Governing Board to act for that purpose.

26 12. A contract or an instrument which, if made or executed by any
27 person not being a body corporate, would not be required to be under seal,
28 may be made or executed on behalf of Commission by the Director-General
29 or any person generally or specially authorized to act for that purpose by the
30 Governing Board.

1	8. OPL213
2	9. OPL247
3	10. OPL244
4	11. OPL220
5	12. OPL318
6	13. OPL221
7	15. OPL222
8	16. OPL324
9	17. OPL212
10	18. OPL219
11	19. OPL245
12	20. OPL322
13	21. OPL320
14	22. OPL217
15	23. OPL218
16	24. OPLs242
17	25. OPL256)
18	26. OPL214

FIFTH SCHEDULE

CONFLICT OF INTEREST AND CORPORATE RESPONSIBILITY

1.- (1) In the discharge of their responsibilities, members of the Board shall act in utmost good faith, with care, skill and diligence.

(2) Members of the Board have fiduciary obligation to the Commission, and shall not be involved in any decision where their interests conflict with the interest of the Commission

(3) Members of the Board shall adhere to all the duties and obligations specified for directors under the Company and Allied Matters Act.

2. Members of the Board shall submit a written statement of disclosure of interests and a statement of absence of conflicts with the

- 1 Commission's activities and operations annually to the Board.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the establishment of the legal and regulatory framework, institutions and regulatory authorities as well as guidelines for the operation of the Upstream and Downstream Sectors of the Nigerian Petroleum Industry.

PETROLEUM INDUSTRY FISCAL FRAMEWORK BILL, 2016

ARRANGEMENT OF SECTIONS

Contents

PART 1: OBJECTIVES

1. Objective

PART 2: GENERAL MATTERS

2. Responsibilities of Institutions
3. Adjustment Factors
4. Special Products
5. Fiscal Provisions for frontier acreage and Ultra-Deep Water

PART 3: COMPANIES INCOME TAX

6. General Requirement to pay Corporate Income Tax

PART 4: RENTS AND ROYAL TIES

7. Rents for Licences and Leases
8. All Petroleum Production Subject to Royalties
9. Royalties Payable in Cash
10. Total royalty rates
11. Royalty rates based on location and Production
12. Royalty rates based on Value

PART 5: NIGERIAN HYDROCARBON TAX

13. Requirement to pay Nigerian Hydrocarbon Tax
14. Powers and Duties
15. Signification and Execution of powers and Duties
16. Service and Signature of Notices
17. Charge of Tax
18. Ascertainment of Profits
19. Deductions Allowed
20. Deductions not allowed
21. Artificial Transactions
22. Assessable Profits and Losses
23. Trade or business sold or Transferred to Nigerian Company