

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE FEDERAL CAPITAL
TERRITORY AREA COUNCIL AGRO-INDUSTRIAL DEVELOPMENT FUND AND
OTHER MATTERS CONNECTED THEREWITH

Sponsored by Senator Obinna Ogba

[] Commencement

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

1 1.-(1) There is hereby established, a fund to be known as the Agro-
2 Industrial Development Fund.

Establishment
and purpose of
the fund

3 (2) The fund shall be a body corporate with perpetual succession
4 and a common seal, and shall have the power to sue and be sued in its
5 corporate name, and to hold, acquire and dispose for otherwise deal with
6 movable and immovable property.

7 (3) The fund is established for the purpose of agro-industrial
8 development in the Federal Capital Territory Areas Council.

9 2.-(1) The capital of the fund shall, without further assurance,
10 comprise all moneys held by or on behalf of the Agro-Industrial
11 Development fund, however acquired and wheresoever's lodged, and shall
12 without prejudice to the foregoing includes:

Capital of the
Fund

13 (a) The initial capital of the fund which shall be made up of
14 contributions as debentures from each of the Area Council in the FCT in the
15 proportion of 5% of their respective one month allocations;

16 (b) Capital investments to the aggregate of N20million contributed
17 in equal proportion by each of the Area Council in the FCT as special grant to
18 the fund;

19 (c) Capital investment of N200 million contributed by Federal
20 Capital Territory Administration annually;

1 (d) Capital investment amounting to 100% of the total investment of
2 the FCT and Area Council of Nigeria as debentures contributed by each of
3 banks participating in the fund;

4 (e) Any other investment of loan or funds from financial and banking
5 institutions including CBN or from FCT Administration;

6 (f) Any sum earned or arising from any property acquired by or vested
7 in the fund;

8 (g) Any sum which may be vested to or investments in the fund by a
9 statutory corporation, a government owned company or any other company or
10 body;

11 (h) Rents accruing from the letting or hire of the funds plant,
12 machinery, building or other property;

13 (i) Any property which may vest in the fund by virtue of this act or
14 under any written law;

15 (j) Any sums earned by or accruing to the fund, from any investment
16 or from the manufacture, sale or distribution of any plants, machinery,
17 commodity or property carried on by the fund in the exercise of its function
18 which may be in excess of the management committee approved farm factory
19 prices for such commodities or machinery payable to the farmers or
20 proprietors.

21 (2) (a) All monies comprised in the fund shall be deposited with the
22 banks in accounts which may be opened for the purpose of the fund.

Operation of
the fund

23 3.-(1) The bank shall grant or provide credit facilities to any farmer
24 from any Area Council of the Federal Capital Territory which credit facilities
25 shall form the loan granted to the farmer under this ACT.

26 (2) The loan or credit facility granted or provided to the farmer or
27 industrialist shall take the form of:

28 (i) Farm machinery and tools to a maximum value to be determined
29 by the committee and the banks, for which there shall be a two year moratorium
30 repayment period;

1 (ii) Seed, fish fingerlings, fertilizers, feeds, pesticides and other
2 agricultural and industrial chemicals; and

3 (iii) Cash advances as and when necessary as working capital for
4 labour, fuel and maintenance.

5 (3) At the end of every farming season, the farmer should have:

Method of
recoveries

6 (i) Refunded all the advances of a recurrent nature namely, for
7 seed, chemicals and cash;

8 (ii) Refunded one-fifth of the loan for machinery and tools at the
9 end of the farming season immediately following the end of the moratorium
10 period provided in section 5(2)(i) above.

11 4.-(i) Recovery from the farmer or industrialist shall be made not in
12 cash but in produce at a value calculated to give him a reasonable profit of
13 ten to fifteen percent (10% - 15%) after tax on the investment, provided the
14 minimum project yield targets are met; and

15 (ii) Any short fall in the value of produce as calculated by the price
16 fixed by the board shall be made up in cash by the farmer so that all loan
17 servicing requirements are fully met at the end of every farming season.

18 (2) (a) To qualify for a loan under this Act, the applicant must be a
19 Nigerian-born or married in any Area Council of FCT and operating in any
20 of the following five categories:

Qualifications
of loans

21 (i) Individual entrepreneur;

22 (ii) Sole proprietor;

23 (iii) Partnership;

24 (iv) Limited liability company; and

25 (v) Group of farmers or co-operative society.

26 (b) The applicant must submit a comprehensive feasibility report
27 clearly demonstrating the viability of the project, complete with
28 profitability analysis and cash flow projection;

29 (c) Except for individual applicants, the applicant must submit
30 certificate of registration or incorporation, as the case may be;

1 (d) Where applicable, can audited balance sheet must be submitted
2 especially for limited liability companies and co-operative societies. This
3 financial statement must cover the last three years immediately proceeding the
4 time of submission of the application;

5 (e) Memorandum and Articles of Association must be submitted
6 where appropriate in the case of limited liability companies. The borrowing
7 powers of the concern must be indicated and agricultural or agro-based/related
8 industrial production must form part of the object clause of the company. In the
9 case of co-operative societies, the byelaws must be submitted;

10 (f) Applicants for corp production must have a minimum of five
11 hectares of farmlands prior to submission of application, and they must show
12 evidence or right of use of such land for a minimum period of two years from
13 date of submission of application;

14 (g) An applicant shall possess acceptable management capability and
15 satisfactory business reputation and proven integrity;

16 (h) Aside from land, applicant's equity contribution must be seen or
17 clearly defined and the minimum acceptable stake of the applicant in the
18 project will be determined by the Board;

19 (i) The applicant must maintain a satisfactory current account in any
20 of the banks in the scheme for a period of at least three months prior to
21 commencement of actual disbursements for projects accepted into the scheme;

22 (j) In the case of a young graduate or a group of young graduate of
23 recognized agricultural institutions or any interested young graduate, they
24 must:

25 (i) Surrender the original copies of their degree/diploma certificates
26 and their NYSC discharge certificates, where applicable; and

27 (ii) Provide two guarantors who are acceptable to the Board.

28 (k) The Board and the banks may insist on perfection of securities
29 before allowing utilization of approved facilities.

5. There shall be a Board of Management of the fund which shall be the Governing Board of the fund. The Board shall consist of the following:

Establishment
and Membership
of the Board of
Management

- (a) Head of Agricultural Secretariat;
- (b) Representative of Finance and Economic Development secretariat;
- (c) Local Government and Chieftaincy Affairs Secretariat;
- (d) A law officer form legal Secretariat;
- (e) Six Area Council Chairmen;
- (f) One representative from each of the funding Banks;
- (g) Two representatives of the farmers to be nominated by the Board of Management;
- (h) Three members appointed by minister;
- (i) Two youth appointed by minister.

6.-(a) Members of the Board, other than officio member, shall hold officer subject to the pleasure of the minister;

Tenure of Office

(b) Notwithstanding anything contained in the instrument or letter by which he is appointed, a member of the Board appointed pursuant to paragraphs (h) to (j) of section 5 may resign his appointment by a letter to the Executive Secretary to the Board.

7.-(1) The Board may, subject to the approval of the minister, appoint a fit and suitable person to the Project Manager of the fund.

Project Manager
of the Fund and
his functions

(2) The Project Manager shall:

- (a) be responsible for carrying out the policy and decisions of the Board;
- (b) advise the Board on policy issues; and
- (c) manage all the business, keep and preserve all the property of the fund.

8.-(1) The Board shall, subject to approval of the minister, appoint a fit and suitable person to be the Executive Secretary of the Board, and it

Executive
Secretary to the
Board

1 shall be the duty of the Executive Secretary who shall be a member of Board to:

2 (i) Conduct the correspondence and keep records of the Board;

3 (ii) Perform such other functions as the Board may from time to time
4 assign to him; and

5 (iii) Perform such other duties as the Project Manager may from time
6 to time direct.

7 (2) Such an appointee shall either be:

8 (i) Legal practitioner;

9 (ii) Member of the institute of Chartered Secretaries and
10 Administration;

11 (iii) Member of Institute of Manpower Development and
12 Management.

Authentication
of documents

13 9. The affixing of the common seal of the fund shall be authenticated
14 by the signatures of the Chairman or some other members of the Board
15 authorized either generally or specifically by the Board to act in its stead for
16 that purpose and of the Secretary for the Board.

Functions of
the Board

17 10. The functions of the Board shall include:

18 (a) To operate the fund so as to achieve the aims and objectives for
19 which fund is established under this Act;

20 (b) To invite, receive and process applications from eligible
21 applicants for the purpose of recommending them to the bank for grant of credit
22 facilities;

23 (c) To purchase modern farm machinery and hire them out to farmers
24 to cultivate rice, maize, yam and other varieties of food and cash crops;

25 (d) To screen the managers appointed by the sponsored farmers for
26 their suitability based on educational qualification, cognate work experience,
27 management capacity and personal integrity, to ensure that the business is
28 effectively and efficiently managed.

29 (e) To process, store and market the produce from the various projects
30 in such a way as to realize the best market prices, avoid such arising from lack

1 of storage and other facilities, without incurring unnecessary bank charges;

2 (f) To liaise with the Land Use Allocation Committee, AGIS and
3 Area Councils to acquire suitable farm land for the graduate farmers who do
4 not own land or cannot afford the requisite land requirements necessary to
5 qualify as crop farmers;

6 (g) To provide storage facilities for farm produce;

7 (h) To ensure that once a farmer has obtained credit facilities from
8 the bank on the recommendation by the Board, he undertakes to maintain an
9 account with the bank during the period recommended by the Board for
10 eight years, whichever is less:

11 (i) To fix a ceiling of the amount of loan an individual or corporate
12 borrower in the scheme would be entitled to, provided that the overdraft
13 facilities do not exceed the total revenue generated in the previous year by
14 the project;

15 (ii) To submit progress report on the operation of the fund to the
16 Honourable Minister every six months.

17 **11.** The Board may with the written approval of the minister:

Employees of
the Fund

18 (a) From time to time, appoint, upon such salaries, terms and
19 conditions of services as it reflects in FCT Civil Service, such employees as
20 may be necessary for the proper and efficient conduct of the operations of
21 the Board, so however that the Board shall employ an agronomist, an agro-
22 mechanical engineer, a civil engineer, an accountant, a lawyer, bio-
23 technologist among its employees;

24 (b) Grant persons, gratuities and other retiring benefits to its
25 employees or may require them to contribute to a pension or contributory
26 scheme (as demand by pension Act); and

27 (c) Grant loans to its employees for such purpose as the Board may
28 approve.

29 **12.** The fund may, on the recommendation of the Board and with
30 prior approval of the minister in writing, borrow sums of money required for

Powers to borrow

1 carrying on its functions.

Meetings of the
Governing Board

2 **13.** The Governing Board shall hold meetings as and when the need a
3 rises, provided that there shall be at least four meeting of the Board in anyone
4 year.

5 (2) All meetings of the Board shall be summoned at the direction of
6 the chairman, or at the request in writing of at least 2/3 majority of members of
7 the Board.

8 (3) The chairman shall preside at the meetings of the Board; provided
9 however that where for any reason the chairman is absent from a meeting of the
10 Board, the project manager or one of the members of the Board present ranking
11 in the order in which they are mentioned in sub section (2) of section 6 of this
12 Act shall preside.

13 (4) The Board may co-opt two or more persons with good background
14 in agro-industrial development to assist it in its deliberations; and any person
15 so co-opted shall have all the rights and privileges of a member, save that he
16 shall not be entitled to vote on any question or be counted for a quorum.

17 (5) At a meeting of the Board, five members present, including t he
18 chairman and secretary shall form a quorum.

Not profit of
the Fund

19 **14.** The Board shall approve the percentage net profit of the fund to
20 be share out to the Area Council in the proportion they contributed to the fund

Charge on
property and
priority

21 **15.-(1)** When the Board recommends a farmer or group of farmers to
22 the Bank for the purpose of providing credit facilities to the farmer or group of
23 farmers, as the case may be, the bank shall require the farmer or group of
24 farmers aforesaid to secure the loan by a mortgage of immovable property,
25 between the bank as lender and the farmer as the borrower, and the mortgaged
26 property shall, from the date of the mortgage, be charged with the repayment of
27 such loans and interest, and such mortgage shall rank in priority, save so far as
28 is otherwise specified in the mortgage, over every other debt, mortgage or
29 charge whatsoever affecting the farm except a loan due to a bonafide creditor
30 not assenting to the priority which has been made in good faith before the loan

1 made by the bank and which had been secured to the creditor by a duly
2 registered mortgage of the property.

3 (2) It shall be the duty of the lending bank to ensure that the
4 perfection of security on the loan is complete d prior to commencement of
5 disbursement of approval facilities.

6 16.-(1) Where the Board has recommended a farmer or group of
7 farmers to the bank and the bank grant the loan, the Board shall, from time to
8 time, make or cause to be made such examination and periodic inspection of
9 the farm or project t as may be necessary to ensure that the loan is being or
10 has been applied to the purpose for which it was made.

Assurance of
proper application
of loan

11 (2) The Board may appoint any of its officers or any other person
12 authorized in writing by the Board to make the examination or inspection,
13 vet and advise on the possibility of the borrower's proposals and the
14 person(s) who receives the loan shall produce to that officer or person all the
15 relevant books, documents and other matters and things necessary for the
16 purpose of the examination or inspection, and the officer or any other person
17 may liaise with the other source to ascertain the farmer's integrity.

18 (3) An officer or person duly authorized the Board under
19 subsection (2) of this section may, for the purpose of this section, at a
20 reasonable time, enter any farm premises, buildings or land owned or
21 occupied by the person who received the loan or his agents for the purpose of
22 carrying out examination or inspection under subsection (1) of this section.

23 (4) To ensure further the proper application of the loan, that portion
24 of the loan designated for suppliers, services or equipment may be paid by
25 the bank directly to a third party nominated by applicant, and the bank shall
26 ensure that the money paid to the third party shall be utilized for the purposes
27 of the supplies, services or equipment, and such payments shall be deemed
28 to be a loan made to the applicant under this

29 Act.

Power of the
Board to request
the Bank to order
repayment of
mis-applied loan

1 17. Where upon an examination made, pursuant to section 16 of this
2 Act, it appears to the Board that a sum being the whole or part of a loan made by
3 the bank on the recommendation of the Board has not been applied for the
4 purpose for which the loan was made, the Board may request the bank to order
5 that the sum be repaid to the bank forthwith within the time specified in the
6 order and the sum so ordered to be repaid shall thereupon become a debt due to
7 the bank.

Fixed Deposit
as security

8 18.-(1) Where the Board recommends to the bank that a farmer be
9 granted credit facility or a loan without security being given by the farmer, the
10 bank shall fall back on the fixed deposit of the fund as security for the loan or
11 advance.

12 (2) The fixed deposit shall be increased but not reduced during the life
13 of the scheme.

Power of the
Board to request
Bank to foreclose
mortgage

14 19.-(1) If in the opinion of the Board, a loan made under this Act has
15 been misapplied, the Board may request the bank to call the loan, whether or
16 not the loan has been secured by mortgage or otherwise, and the bank may by
17 notice in writing addressed to the borrower, call the said loan or that part of it to
18 be repaid on the date specified in the notice and may in default thereafter
19 foreclose the mortgage if the loan is secured by mortgage.

20 (2) The notice mentioned in subsection (1) of this section shall be
21 served or deemed to be served on the borrower if it is:

22 (a) delivered personally to the borrower, or

23 (b) posted under registered cover to the last known address of the
24 borrower.

Power of the
Bank to enter
premises and
take inventory
of chattels on
death or
dissolution

25 20.-(1) On the death, dissolution or winding up, as the case may be, of
26 an individual, partnership or company whose loan has not been fully repaid to
27 the bank, an officer or authorized agent of the bank shall have power at a
28 reasonable and convenient hour to enter any premises where chattels and other
29 assets purchased or deemed to have been purchased in whole or in part with
30 loan granted under this Act are stored and take inventory of the chattels and

1 other assets with the person who has custody thereof.

2 (2) Such officer or authorized agent of the bank shall thereupon call
3 upon the administrators personal representative, successor-in-title,
4 liquidator or guarantor of the individual, partnership or company, as the case
5 maybe, to refund the balance of the loan then outstanding and interests then
6 accruing. Upon his failure to comply with this demand, the bank shall apply
7 to the court for an order of sale of the chattel and/or other assets of the
8 individual, partnership or company.

9 (3) The proceeds of the sale shall be used to recoup the balance of
10 the loan and the interest accruing therein and the balance thereof shall accrue
11 to the estate of the deceased or the account of the partnership or company.

12 21.-(1) Where the bank lends money to a person, a partnership or
13 company (hereinafter called "the borrower", the business of the borrower
14 shall be insured by the bank at the borrower's expense with an insurance
15 company of reputable financial standing against eventualities as untimely
16 death of the individual, dissolution or winding up of the partnership or
17 company. Incapacitation, damage to plant, machinery and equipment, theft
18 of produce in warehouse or normal place of sale or business premises, illegal
19 entry into properly secured warehouse or factory, crop failure, damage of
20 crops by fire or act of God, as the case may be for the full values of the
21 business or for the total amount of the loan, until the loan is fully repaid.

Insurance

22 (2) The insurance policy shall be taken out in the joint names of the
23 borrower and the bank.

24 (3) Notwithstanding the provisions of the foregoing subsections of
25 this section, the Board may operate a mutual fund scheme for the benefit of
26 borrowers of the fund for the purpose of ensuring the repayment of the loan.

27 22.-(1) The Board through its management shall:

Accounts and
Audit

28 (a) Keep proper accounts;

29 (b) Keep proper records;

1 (c) Prepare in respect of each financial year a statement of account in a
2 form:

- 3 (i) prescribed by the finance and account secretariat;
- 4 (ii) conforming with the best financial standard.

5 (2) The accounts of the authority shall be audited annually from a list
6 of auditors submitted to it by the Auditor-General of the FCT.

7 (3) The Auditor-General shall submit his report of the audited
8 accounts of the Board mentioned in subsection (2) of this section to the
9 National Assembly.

10 (4) As soon as possible after the end of each financial year but not later
11 than the 30th day of June the year following, the management shall:

12 (a) prepare a general report of its activities during the financial year;
13 and

14 (b) the audited accounts of the management to the minister.

15 23.-(a) The District Court FCT shall have jurisdiction in civil matter
16 and magistrates of FCT shall have jurisdiction to try offence under this Act;

17 (b) The rules shall be applied in accordance with district court rules of
18 FCT;

19 (c) Appeals from subsection (a) shall be to FCT High Court.

Limitation of
action against
the fund

20 24.-(1) No suit against the Board or the fund or any member of the
21 Board or any servant of the fund for any act done in pursuance or execution of
22 any law or of any public duty or authority or in respect of any alleged neglect or
23 default in the execution of such law, duty or authority, shall lie or be instituted
24 in any court unless it is commenced within three months next after the act,
25 neglect or default complained of or, in the case of continue damage or injury,
26 within three months next after the ceasing thereof.

27 (2) No suit shall be commenced against the fund until one month at
28 least after written notice of intention to commence the same shall have been
29 served on the fund by the intending plaintiff or his legal representative, and
30 such notice shall clearly and explicitly state the cause of action, the particulars

1 of the claim, the name and place of abode of the intending plaintiff and the
2 relief which he claims. A notice under this subsection shall be deemed to be
3 due compliance with the requirements of subsection (1) of this section.

4 25. The notice referred to in the last proceeding section and any Service of Notice
5 other notice or other documents which may be served upon the fund under
6 the provisions of this Act or any other law may unless in any case there is
7 expressed provision to the contrary, be served by delivering the same to the
8 Project Manager or by registered post addressed to the Project Manger of the
9 principal office of the fund.

10 26.-(1) In any suit by or against the fund, the fund may be Legal
11 represented in court at any state of the proceedings by: Representation

12 (a) a legal practitioner in law officer, or

13 (b) a civil servant of the fund authorized by the Board Chairman.

14 (2) In this section, "suit" includes any action or any civil
15 proceedings commenced by a writ of summons or in such manner as may be
16 prescribed by rules of the court especially pertaining to a loan or security for
17 a loan granted under this Act, but does not include criminal proceedings.

18 27. An applicant for a loan under this Act who:

Offences of
Applicants

19 (a) Makes to the Board a material statement which he knows to be
20 false or does not believe to be true; or

21 (b) With intent to defraud, fails to disclose to the Board material
22 information within his knowledge, is guilty of an offence and shall be liable
23 on summary conviction, to imprisonment for one year or a fine of Two
24 Hundred Thousand Naira (N200,000.00) or to both such fine and
25 imprisonment.

26 28. Any person who obstructs the Chairman, officer or authorized
27 agent of the Board in the execution or enforcement of any provision of this
28 Act, is guilty of any offence and liable, on summary conviction, to
29 imprisonment for one year or a fine of Two Hundred Thousand Naira
30 (N200,000.00) or to both such fine and imprisonment.

Obstruction of
Board's officials
or agent prohibited

Corruption in
connection with
loan

1 **29.-(1)** A member, servant or agent of the Board who corruptly
2 accepts or agreed or obtains from any person any property or benefits of any
3 kind for himself or for any other person in respect of or in connection with a
4 loan or an application for a loan under this Act, is guilty of an offence and shall
5 be liable on conviction, to imprisonment for two years or a fine of Five
6 Hundred Thousand Naira (N500,000.00) or to both such fine and
7 imprisonment.

8 **(2)** A person who corruptly gives or promises or offers to give any
9 property or benefit of any kind to a member or servant of the Board in respect
10 of or in connection with a loan or application for a loan under this Act, is guilty
11 of an offence and shall be liable on summary conviction, to imprisonment for
12 one year or to a fine of Two Hundred and Fifty Thousand Naira (N250,000.00)
13 as to both such fine and imprisonment.

Pensions and
Gratuities

14 **30.** The fund shall grant gratuities and pensions, as the case may be,
15 to officers and personnel or to the estate of such officers and personnel in
16 accordance with the pension Act.

Interpretation

17 **31.** In this Act:

18 "The banks" means any of the following banks:

19 (i) Bank of Agriculture;

20 (ii) Bank of Industry;

21 (iii) Any other commercial Bank that may agree to participate.

22 "Chairman" means the chairman of Governing Board;

23 "Farming season" means the period of the year during which the farmer
24 cultivates his crops, harvest them and disposes of the harvested crops;

25 "Function" includes powers and duties;

26 "FCT" Federal Capital Territory, Abuja;

27 "Minister" means the minister of the Federal Capital Territory, Abuja;

28 "Area Council" means Local Government Areas in FCT;

29 "the Project Manger" means the Project Manager appointed pursuant to section
30 7 of the ACT;

1 "The Executive Secretary" means the Secretary of the Board.

2 32. This Bill may be cited as the Federal Capital Territory Area
3 Council Agro-Industrial Development Fund Bill, 2017.

EXPLANATORY MEMORANDUM

The Bill seeks to establish Area Council Agro-Industrial Development Fund, charged with the responsibility to, among other things to industrialize Federal Capital Territory through modern agricultural skills. It will also help young graduates in venturing into modern agriculture and thereby diversifying our economy in FCT.

