NATIONAL SECURITY TRUST FUND (ESTABLISHMENT, ETC.) BILL, 2019

ARRANGEMENT OF CLAUSES

Clause:

A BILL

FOR

AN ACT TO ESTABLISH THE NATIONAL SECURITY TRUST FUND ACT 2018, TO PROVIDE FOR THE MAINTENANCE OF A TRUST FUND THAT WILL CARTER FOR THE PROCUREMENT OF MILITARY AND SECURITY INFRASTRUCTURE, AND TECHNOLOGY FOR SECURITY AGENCIES IN NIGERIA AND FOR RELATED MATTERS

Sponsored by Hon. Rimamnde Shawulu Kwewum

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

Establishment of the National Security Trust Fund

1. There is established a Fund to be known as the National Security Trust Fund (in this Bill referred to as "the Fund"), which shall be the depository of all monies received under this Bill.

Object of the Fund

2. The object of the Fund shall be for the provision of military and security hardware, infrastructure, technology and training for security agencies in Nigeria.

Establishment of the Board of Trustees

3.-(1) There is established a Board of Trustees to be known as the National Security Trust Fund Board of Trustees (in this Bill referred to as "the Board")

(2) The Board.

(a) Shall be a body corporate with perpetual succession and a common seal;

(b) May sue or be sued in its corporate name; and

(c) Shall be capable of holding, purchasing, acquiring and disposing of any property whether moveable or immovable.

Composition of the Board

4.-(1) The Board shall consist of persons nominated by the President subject to confirmation by the National Assembly.

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

(i) A Chairman;

(ii) One person each of the six geopolitical zones in Nigeria;

(iii) A representative each of the following security agencies:

(a) The Nigerian Army;

(b) The Nigerian Navy;

(c) The Nigerian Airforce;

(d) The State Security Services;

(e) The Nigerian Police Force;

(f) The Nigerian Security and Civil Defence corps;

(g) Nigerian Intelligence agency.

Provide that a person nominated under clause 4(2)(i and ii) shall not be eligible to serve on the Board unless such a person has passed a security screening by the appropriate authority as may be prescribed from time to time by the President and found to be a fit and proper person to serve on the Board.

Terms of Office

5. The Chairman and members of the Board shall hold office for a term of five (5) years and shall be eligible for reappointment for one further term of five (5) years and no more.

Remuneration

6. The Chairman and other members Board shall be paid such remuneration as may be determined from time to time by the Revenue Mobilization and Fiscal Responsibility Commission.

Cessation of Office

7.-(1) The Chairman or a member of the Board shall cease to hold office if he:

(i) Becomes of unsound mind;

(ii) Becomes bankrupt or makes a compromise with his creditors;

(iii) Is convicted of a felony or any offence involving dishonesty; or

(iv) Is guilty of serious misconduct in relation to his duties.

(2) The Chairman or members of the Board may be removed from office by the President, provided that the reasons adduced by the president are approved by a resolution of the two chambers of the National Assembly.

(3) The Chairman or any member may resign his appointment by a notice in writing under his hand addressed to the President.

(4) Where a vacancy occurs on the Board, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so that the successor shall represent the same interest;

Functions of the Board

8. The Board shall:

(a) Be responsible for the management of the Fund established under this Bill and all other properties that may from time to time be vested in it;

(b) Devise ways and means of raising contributions and donations for the Fund as it may deem fit or to generate money for the Fund, pursuant to the provisions of this Bill;

(c) Set up operational guidelines for the Secretariat of the Board subject to the approval of the National Assembly;

(d) Sensitize security agencies on the need to effectively use and maintain infrastructure and gadgets deployed to them through the Fund;

(e) Encourage and set up the mechanism for common use of resources and platforms;

(f) Advise the president on the activities of the Fund and any other matter relating to the implementation of programmes of the Fund and recommendations of the Board thereof;

(g) Do such other things which in its opinion is expedient for the performance of its objective under this Bill.

Powers of the Board

9. The Board shall have power to:

(a) Generally raise money for the Fund through voluntary subscription and donation from all interested private organizations and individuals;

(b) Maintain accounts in any reputable back as may be approved by the Board or by the Federal Government;

(c) Keep proper accounts and records in relations to all its transactions in conformity with standard commercial practice;

(d) Acquire and maintain assets for and on behalf of the Fund;

(e) Pay and discharge out all expenses properly incurred by it;

(f) Set out the policies and programmes for the Funds;

(g) Approve the disbursement of monies from the Trust Fund to finance the provisions of military and security hardware, infrastructure and technology for the security Agencies;

(h) Appoint consultants or enter in to contracts as it deems necessary for the efficient performance of its function under the Act.

(i) Scrutinise and approve projects which qualify for financing under this Bill; and

(j) Exercise control over the management of the Trust Fund with view to ensuring accountability and proper utilization of monies in the Trust Fund for the purposes set out in this Bill.

Appointment of the Executive Secretary

10. -(1) There shall be appointed for the Fund an Executive Secretary who shall:

(a) Be appointed by the President subject to confirmation by the Senate;

(b) Be the Chief Executive and accounting Officer of the Fund;

(c) Be a person with good knowledge and cognate academic and administrative experience in security matters; and

(d) Have qualification and experience as are appropriate for a person required to perform the functions of that office under this Bill.

(2) The Executive Secretary shall hold office for a period of four (4) years in the first instance and may be eligible for reappointment for a maximum

of two additional term of four (4) years only and on such terms and conditions as to emoluments, and conditions of services as may be specified by the Revenue Mobilization and Fiscal Responsibility Commission.

(3) The Executive Secretary shall, subject to the general direction of the Board, be responsible for:

(a) The day-to-day administration of the Fund;

(b) Keeping the books and proper records of the proceedings of the Board;

(c) The administration of the secretariat of the Board; and

(d) The general direction and control of all other employees of the Fund.

Other Staff of the Board

11.-(1) The Board shall have power to:

(a) Employ either directly or on transfer or secondment from any civil or public service in the Federation such number a employees as may, in the opinion of the Board, be required to assist the Board of Trustees and the Executive Secretary in the discharge of their functions; and

(b) Pay to persons so employed such remuneration (including allowances) as the Board may, with the approval of the National Salaries, Income and Wages Commission, determine.

(2) Staff of the Fund shall be entitled to pension, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the Public Service of the Federation.

(3) Nothing in sub clause (2) shall prevent the appointment of a person to any office on terms which prelude the grant of pension and gratuity in respect of that office.

Meeting of the Board

12.-(1) The Board shall meet at least once quarterly.

(2) The Chairman may convene as many meetings of the Board as he considers necessary for the efficient conduct of its affairs; provided that the Chairman or, in his absence, a member appointed, other than the representative of any of the security agencies shall preside at such meeting.

(3) A minimum of seven (7) members shall form the quorum for a meeting, which shall include at least three of the zonal representatives

(4) Any issue arising at a meeting of the Board shall be determined by a majority of the votes of the members present and voting

(5) The person presiding has a deliberative vote and in the event of an equality of votes on any issue, a casting vote.

(6) Subject to the provisions of this Bill, the Board may regulate its own proceedings, provided that the rules governing the conduct of meetings are adopted at the beginning of each fiscal year and may not be amended for the purpose of a particular meeting.

Sources of Fund

13. The sources of funds for the Fund shall include but not limited to the following:

(a) Federal Government Subventions;

(b) Five per cent of Value Added Tax accruable to consolidated Revenue Fund;

(c) 5 per cent of license fees collected by the (NCC);

(d) 5% of the 2.5% Operating Tax that Telecom operators pay to NCC;

(e) 5 per cent of 1 % levy on profits of telecoms companies as collected by NITDA;

(f) Five per cent of monies generated by Department of Petroleum Resources (DPR) from signature bonus paid by awardee of oil blocks;

(g) Other financial or material aid, gifts, awards;

(h) 5% of the operating security budgets of Multinational oil companies, banking institutions and companies whose which require security presence for their operations; and

(i) Any other form of levy or support from any other source.

Annual Budget

14.-(1) Each Security Agency established by an Act of the National Assembly shall prepare in every fiscal year, a budget setting out its military and security hardware, infrastructural and technological requirements and forward same to the Board for consideration.

(2) The budget referred to in sub clause 1 above shall be set out as follows:

(i) Fifty per cent of the total expenditure shall be set aside for technology, military, and security hardware requirements;

(ii) Thirty per cent of the total expenditure shall be set aside for infrastructural requirements; and

(iii) Twenty per cent shall be set aside for training.

15. The Board shall cause to be prepared and submitted to the National Assembly an annual report which shall include its audited accounts.

Annual report

16. The Board's funds and its properties shall not be liable to tax by any government or authority and contributions to the fund shall be recognized for tax purposes as expenditure towards the sustenance of the donor's business.

Tax exemption

17.-(1) Any Company or organization liable to pay National Security Agencies tax, but contravenes or fails to comply with visions of this Bill, is guilty of an offence under this Bill.

(2) Except as otherwise provided in this Bill, the Chairman/Chief Executive Officer or any management staff in charge of a company or an organization guilty of an offence under this Bill shall, on conviction, be liable:

(a) for a first offence, to imprisonment for a term of 6 months or to a fine of up to 50% of the amount due to the trust fund from the company or organization or both;

(b) for a second and subsequent offence to imprisonment for a term of 12 months or to a fine of up to 80% of the amount due to the trust fund from the company or organization or both; and

(c) Interest shall accrue on the defaulting assessment in accordance with prevailing commercial bank interests.

(3) The institution of proceedings or imposition of a penalty under

this Bill shall not relieve a company or an Organization from liability to pay to the trust fund which is or may become due under the Bill.

Jurisdiction

18. The federal High court shall have jurisdiction to try offenders under this Bill.

Application of Officers Protection Act

19.-(1) Subject to the provisions of the Bill, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Fund.

(2) Notwithstanding anything contained in any other law or enactment, no suit against any member of the Board of Trustees, the Executive Secretary or any other officer or employee of the Fund for any act done in pursuance or execution of the Bill or any other law enactment, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Bill or such law or enactment, duty or authority, shall lie or be instituted in any court unless:

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

(b) In the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.

(3) No suit shall be commenced against a member of the Board of Trustees, the Executive Secretary, officer or employee of the Fund before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Fund by the intending plaintiff or his agent.

(4) The notice referred to in sub clause (3) of this clause shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

Notice of Summons

20. A notice, summons or other document required or authorized to be served upon the Fund under the provisions of this Bill or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the principal office of the Fund.

Execution of attachment

21.-(1) In any action or suit against the Fund, no executive or attachment of process in the nature thereof shall be issued against the Fund.

(2) Any sum of money which may, by the judgement of any court, be awarded against the Fund shall, subject to any direction given by the court where notice of appeal of the said judgement has been given, be paid from the general reserve fund of the Fund.

Indemnity

22. A member of the Board of Trustees, the Executive Secretary, any officer or employee of the Fund shall be indemnified out of the assets of the Fund against any proceeding, whether civil or criminal, in which judgement is given in his favour, or in which is acquitted, if any such proceedings is brought against him in his capacity as a member of the Board of Trustees, the Executive Secretary, officer or employee of the Fund.

Power to make regulations

23. The Minister may, on the recommendation of the Board of Trustee and subject to the approval of the President and confirmation by the National Assembly make regulations generally for the purpose of this Act and the due administration thereof.

Interpretation

24. In this Bill, unless the context otherwise provides:

"Attorney-General" mean the Attorney-General of the Federation;

"Board" means the National Security Agencies Trust Fund Board of Trustees;

"Chairman" means chairman of the Board;

"Employee" means any person who is employed in Nigeria under any contract is express, implied, oral or in writing;

"Fund" means the National Security Agencies Trust Fund;

"President" means the President of the Federal Republic of Nigeria;

"Security Agencies" means the Armed Forces of the Federal Republic of Nigeria, The State Security Services, The Nigeria Police and the Nigerian Security and Civil Defence Corps and any other Security Agent that may be established by the act of the National Assembly after the coming to force of this Act;

"Minister" means the Minister charged with the responsibility for matters relating Defence;

(2) Where no provision is made in this Act for a matter relating to the assessment and collection of the tax imposed by this Act, the provisions of Act relating to the assessment and collection of companies' income tax or petroleum profit tax, as the case may be, shall apply mutatis mutandis to that matter.

Citation

25. This Bill may be cited as the National Security Trust Fund (Establishment, Etc.) Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Security Trust Fund Act 2018, to provide for maintenance of a trust fund that will carter for the procurement of military and security infrastructure, technology for security agencies in Nigeria.