



JONATHAN: CHAIRING CABINET BUT NO FORMAL HANDOVER

Government in limbo as Jonathan waits in the wings

Unless President **Umaru Musa Yar'Adua** stages a recovery from a serious heart condition in the next few weeks the process of transition to a new administration headed by vice-president **Goodluck Jonathan** will begin.

By late December, Jonathan has been chairing the Federal Executive Council (FEC - cabinet) for five weeks but had received no formal letter signed by Yar'Adua allowing him to become acting president, as the constitution requires.

Senior officials and leaders of the National Assembly have shown they do not want to act hastily. After a scare over the president's health more than a year ago, some officials were caught out and the federal secretary at the time,

Baba Gana Kingibe, was dismissed amid claims of disloyalty once the president returned from treatment.

The response from Senate president **David Mark** and House of Representatives speaker **Dimeji Bankole** has so far been to avoid taking action to declare the president unable to perform his duties.

However, it is widely acknowledged that they can only prevaricate for so long. **Nigeria Focus** hears that a push to get Yar'Adua declared unable to perform his duties will be made when presidential assent is required for the 2010 budget if he fails to return to Nigeria to sign the bill into law. That could be in late January or

February. Meanwhile, the Nigerian government will exist in a limbo.

Some officials who could be disadvantaged by a Jonathan presidency are seeking to head off a challenge. Foremost among them is attorney general and justice minister **Michael Aondoakaa**, who has interpreted the constitution to say the president can perform his duties from anywhere in the world.

Aondoakaa and other officials linked to Yar'Adua, including **David Edevbie**, the principal private secretary, and **Tanimu Yakubu**, special economic adviser, have an interest in keeping Jonathan excluded from holding formal powers. Their plan is to keep Edevbie going back and forward to

Jeddah with important documents for Yar'Adua to sign. This maximises their own power.

Edevbie returned from Jeddah on 28 December with what is reported to be Yar'Adua's long-delayed signature to the 2009 supplementary budget. There was, however, no accompanying letter from the president.

The fact that Yar'Adua is said to have been able to sign the supplementary budget has raised question about why he has not signed a formal handover to Jonathan to act as president.

Senior officials and members of the Yar'Adua family continue to put out statements that the president is recovering and will soon return >>>

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to Nigeria. There are also counter-rumours saying his condition has not improved much since he was put into intensive care at the King Faisal Medical Centre in Jeddah.

Nigeria Focus hears that an effort will be made to get the president back by the time the National Assembly reconvenes on 6 January.

What condition Yar'Adua will be in if he does return is far from clear. Even if he makes the trip back, he could still be effectively incapacitated for some weeks and still unable to perform his duties.

Whatever rumours are true, the situation cannot go on indefinitely. By January, the president's absence will have a major impact on government business, including the controversial Petroleum Industry Bill.

The power vacuum and its beneficiaries

President Yar'Adua's prolonged medical treatment in Saudi Arabia is creating a power vacuum at the heart of the federal government.

Under the 1999 federal constitution, if the president is incapacitated, the vice president should act in his place and is able to perform all the functions of the president. Yar'Adua's failure

to make a formal handover has created new complications and leaves the decisions of the FEC under the stand-in chairmanship of Jonathan open to legal challenge. Human rights lawyer **Femi Falana** has already filed a suit challenging the validity of decisions made by the FEC in recent weeks.

It is already evident that the vacuum is strengthening the positions of some key ministers and weakening others. In the ascendant are Aondoakaa and national security adviser **Sarki Mukhtar**. The validity of the current FEC rests on a legal interpretation by Aondoakaa, who has declared that the president can work from anywhere in the world and isn't required to attend the FEC meetings.

As the kingpin in the current crisis, Aondoakaa is said to be able to veto and scrutinise most decisions of the FEC, using his position as attorney general of the federation (AGF). Members of the FEC have to be in Aondokaa's 'good books' to get contracts for their departments approved. According to one inside source: "Aondokaaa is in cahoots with Sarki Mukhtar and together they rule the roost at the Presidency."

A pressing issue raised by the president's absence is a void in the leadership of Nigeria's superior appellate courts - the Supreme Court

and the Court of Appeal (CA). The Chief Justice of Nigeria, **Idris Kutigi**, is due to retire on 31 December, while CA president Justice **Umaru Abdullahi** retired on 30 November.

Before Yar'Adua left the country, he nominated Justice **Aloysius Katsina-Alu** to take over as chief justice and Justice **Isa Ayo Salami** as the new president of the CA. The Senate has since approved the nominations but legal experts say the Senate confirmation is merely a *de facto* appointment and that it is the swearing-in by the president that confers *de jure* powers on the justices. Aondoakaa may suggest that Yar'Adua swears in the new justices from his hospital bed.

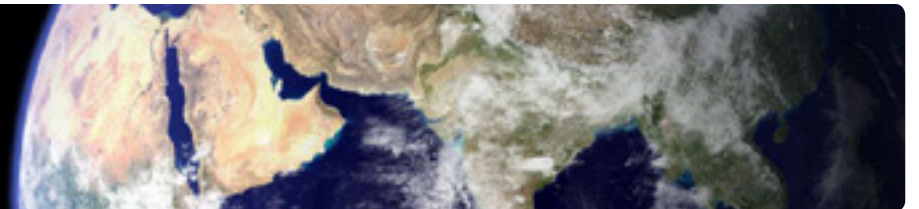
Aondoakaa vs NBA

Aondoakaa and the leadership of the Nigerian Bar Association (NBA) have been engaged in a war of words over the issue of Yar'Adua's health and whether he should resign.

NBA president **Rotimi Akeredolu** has advised that the president should resign in accordance with the provisions of the constitution if he is unable to discharge his duties as president. Akeredolu has accused the AGF of serving selfish purposes in not advising Yar'Adua to take the patriotic step of resigning.

Aondoakaa countered by stating that Akeredolu was expressing his personal opinion and >>>

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not that of the NBA. He added that calls for the president's resignation were premature as the president could perform his functions from anywhere in the world.

Aondoakaa stated a precedent had been set by former military ruler **Ibrahim Babangida** - who ruled from 1985 to 1993 - when he was absent for two months while receiving treatment abroad. Aondoakaa said no one then called for the president's resignation.

Succession struggle begins

Amid conflicting reports about the actual state of President Yar'Adua's health, debates regarding his possible successor are pre-occupying the Nigerian political class.

There have been calls from some quarters for Jonathan to resign to pave the way for a northerner to succeed President Yar'Adua. The view here is that it, in line with the country's unofficial power-rotation policy, the north should hold the reins of power until after 2015. This will not be the case if Jonathan takes over.

Prominent among those calling for Jonathan's resignation is northern politician **Sola Saraki**,

whose son **Bukola Saraki** is current governor of Kwara state. Saraki's motivation may not be altruistic as he is reported to be campaigning for his son to take over from Jonathan as vice president and ultimately become president.

However, Jonathan, who has a reputation for being unassuming, is seeking to build support and has been networking in northern Nigeria. Jonathan enjoys a very cordial relationship with former military head of state General **Abdusalami Abubakar** and has recently held talks with him. Abubakar is very influential in northern politics and widely respected as the military ruler who made it possible for the country to return to democracy.

Jonathan's mentor, **Albert Horsfall** - who gave Jonathan his first political assignment - has strong ties with the north and enjoys a very good relationship with Babangida. He will undoubtedly use those contacts to the benefit of his protégé. A section of the north sees it as a positive development if Jonathan succeeds Yar'Adua. The reasoning is that Jonathan, not being a northerner, will seek cooperation from the north for his administration. Yar'Adua comes from the north and thus feels no real need to

appease the region. Jonathan may need to build support in the north to offset opposition from the east, where his links are not strong.

Even within his home region, the Niger Delta, Jonathan is not likely to enjoy overwhelming support and will thus need the support of the north. There is intense rivalry between the Ijaw, Itsekiri, Urhobo and other tribes of the Niger Delta. Jonathan, an Ijaw man, will require the external support of the north.

Nor is Jonathan likely to enjoy substantial support from the west of the country. Former president **Olusegun Obasanjo** is among those pushing for Jonathan's resignation; he recently held a meeting at his home with **People's Democratic Party** governors from the south-west, apparently in a bid to garner support for his call for Jonathan's resignation.

Ibori acquitted of money laundering

The Federal High Court in Asaba, Delta state, has discharged and acquitted the state's former governor, **James Ibori**, of the 170-count money-

laundering charge brought against him by the **Economic and Financial Crimes Commission (EFCC)**.

Presiding judge **Marcel Awokulehin** struck out the case for lack of evidence. He stated that the prosecution had failed to show critical collaborative evidence and thus failed to establish a *prima facie* case against Ibori.

According to Awokulehin, for a charge of money laundering to stand, certain facts must be established. Those facts include underlying criminal charges, predicate offences such as incidence of corruption, abuse of public office, resources earned from illegal acts or aiding a person to disguise money from an undeclared origin. He further stated that merely saying that money was paid from a government account to another account was not sufficient proof of money laundering.

Making reference to the charge that money was paid into Ibori's personal account from the Delta state account, Awokulehin stated that the statements of account tendered only showed lodgments to the account and did not show that a crime was committed. The EFCC had >>>



The banner features a large gold 'N' on the left. To its right, the text 'Nigeria Oil & Gas 2010' is written in gold, with '22-25 FEBRUARY 2010, ICC, ABUJA' below it. On the far right, there is a gold laurel wreath containing the number '10' and the text '2000 - 2010 10th ANNIVERSARY NOG'.

apparently not questioned any witnesses over the lodgments into Ibori's account.

On the charge that government money was paid into the account of **Prime Chambers** (owned by **Amos Utuama**, the present deputy governor of Delta state), the judge held that there was no evidence of illegality and quashed the charge.

On the charge that Ibori attempted to bribe former EFCC chairman **Nuhu Ribadu** (who instituted the case against Ibori) with \$15 million, Awokulehin held it was "shocking" that, though statements from Ribadu and two other EFCC officials that they received the bribe sum from **Andy Uba** were tendered, no statement or evidence was tendered to show if Uba indeed gave anyone money. If he did, the judge said, the purpose of the money or who the money came from was not established by the prosecution. Thus the charge was also quashed.

The EFCC, though its spokesperson **Femi Babafemi**, expressed its dissatisfaction with the judgment and said that an appeal will be filed against the judgment at the Court of Appeal immediately. The EFCC, he said, will "leave no stone unturned" in ensuring that the case is pursued to its logical conclusion given the enormity of the evidence available to the EFCC.

Soludo wins legal battle

Charles Soludo, former governor of the **Central Bank of Nigeria** (CBN) and candidate of the **People's Democratic Party** (PDP) in the 2010 Anambra state gubernatorial elections, has won a major legal victory.

The Supreme Court has dismissed the judgment of the Court of Appeal in Abuja, which barred Soludo from contesting the elections, stating that the judgment was given in bad faith. Consequently, it ordered the **Independent National Electoral Commission** (INEC) to accept Soludo's candidacy and allow him to participate freely in the elections.

The Supreme Court under Justice **George Oguntade** stated that it was unfair for the Court of Appeal to issue the order barring Soludo from contesting, when the case before it was not heard on merit by both the court of first instance, the Abuja High Court, and the appellate court.

The judgment is the culmination of the legal battle between Soludo and aggrieved gubernatorial candidates of the PDP. The aggrieved candidates had initiated a suit at the Abuja High Court challenging the selection of Soludo, citing the fact that the selection was not conducted in accordance with due process.

The Abuja High Court declined jurisdiction, stating that it could not adjudicate over the internal affairs of the PDP.

The plaintiffs then asked the Court of Appeal to decide if the High Court was right in declining jurisdiction. The Court of Appeal granted an interim injunction barring the INEC from including Soludo's name in the list of approved candidates for the election, pending the determination of the appeal.

This injunction was then appealed against by Soludo at the Supreme Court, which referred the

matter back to the Court of Appeal to determine the substantive case before it would rule on the interim injunction. The Court of Appeal ruling on the substantive case decided that Soludo should be barred from contesting the elections.

Soludo then went back to the Supreme Court, which quashed the Court of Appeal's decision, giving Soludo "unfettered access" to contest the elections.

Budget debated

Following the presentation of the N4.079 trillion 2010 Federal Appropriation Bill, there have been heated debates about the level of implementation of the 2009 budget and the rationale for passing a budget of similar scale. The 2009 budget recorded an abysmal performance level of less than 50%.

This issue came up for debate at the recent plenary of the Nigerian Senate. According to most senators, the implementation of previous budgets has been "poor and unacceptable", and they have even recommended that the president should fire ministers whose ministries recorded a poor level of implementation of the 2009 budget. Senator **Victor Ndoma-Egba** was just one who questioned if the executive arm of government has the capacity to implement a budget of the amount proposed in the 2010 Appropriation Bill. Ndoma-Egba blamed the poor implementation largely on corruption.

In response to the comments, minister of finance **Mansur Muhktar** stated that most ministries had achieved an 80% implementation

rate while the 2009 budget had recorded a near 50% implementation rate.

Minister of state for finance **Remi Babalola** has said that the government had in fact released 100% of the capital budget to all ministerial department accounts as at 31 October 2009 and that this had been accessed by them, resulting in an accelerated utilisation of the capital allocation and accounting for the 50% implementation rate.

The perennial problem of poor budget implementation is thought to be in part a result of corruption on the part of officials who have personal interests in the procurement of capital projects.

Oil and gas

Egbogah sets out terms for Niger Delta oil interest

Emmanuel Egbogah, special adviser to the president on petroleum matters, has been working to put flesh on the bones of a plan to give Niger Delta communities a share in the ownership of oil producing assets.

Details of the plan have yet to be released, but **Nigeria Focus** can report that it will involve a reduction in the government equity share in the upstream joint ventures to 41%, putting **Nigerian National Petroleum Corporation** into a minority position. Significantly, the plan >>>

put forward by Egbogah involves no cut in the equity of the country's upstream joint venture partners.

Egbogah has been working on the plan since President **Umaru Yar'Adua** made a promise in October to give the Niger Delta a 10% interest in oil production. At the time there were many doubts about how the pledge – made to secure political support from the South-South region – would actually be executed.

The allocation of equity to the Niger Delta communities would be effected by the enactment of the proposed Petroleum Industry Bill now before the Nigerian National Assembly and the subsequent incorporation of the joint ventures as limited companies.

As it stands, the Egbogah plan has been greeted with dismay in NNPC, which, as **Nigerian National Petroleum Company**, would see its equity fall to 41% in each incorporated joint venture. This would be the equivalent of a cut of 32% in its equity participation.

It is known that a number of senior NNPC officials have been resistant to cuts in equity

interest, notably group general manager for strategy **Timi Okon**. At a retreat in Warri in October, Okon refused to rule out changes to the IOCs' equity in the international joint ventures (IJVs) and sources say he wanted an overall shareholder dilution.

The Egbogah plan shows that Okon and others in NNPC have failed to get their way. Egbogah is proposing 10% of the equity in each IJV would be assigned to the Niger Delta communities while a further 9% would be made available to the Nigerian public in all the JVs except **Shell Petroleum Development Company**, where only 4% would be made available. SPDC is an exception because the government share is 55% compared to 60% in the other JVs.

When the president put forward the 10% proposal there was huge uncertainty about how the proceeds from the shareholding would be shared among the communities. Egbogah is recommending that the 10% would be held and managed by a trust, but how the trust would carry out the distribution is much more complex.

Egbogah has so far only established the conditions for communities to qualify for

distribution and it is evident there is a lot more work to be done on the split of the proceeds. He has put forward three categories:

- > within the community there must be proven oil/gas reserves, whether or not there is production;
- > oil and gas industry infrastructure including pipelines, flowlines, gas plants and so on must be sited in a community;
- > the community provides access (land or water) to either oil/gas reserves or oil/gas infrastructure.

Egbogah had put forward for discussion internally three options for how the proceeds should be shared out to the communities:

- > equal share by all the eligible communities;
- > share based/weighted on proportion of population of each community;
- > share based on proportion of (or combination of): production; remaining reserves; facilities, and access route to above.

Egbogah has admitted there is a lot more work to be done on the plan, including the "detailed process/modalities for managing the interest of the host communities", the formula for distribution, and the integration of the proposal

into the JV incorporation process. The equity allocation to the Nigeria Delta Trust raises obvious questions about how the trust would fund its participation – both in terms of the equity acquisition from NNPC and in terms of further calls on shareholder funds.

The proposal also raises uncertainties about the joint operations committee. The new PIB seeks to strengthen NNPC's role in the joint operating arrangements, but the Niger Delta plan puts NNPC into a minority position. A senior NNPC source tells **Nigeria Focus** that the best option for distribution will be the value of the assets sited in particular communities. In effect the more the value, the bigger the pay-out.

Egbogah estimates that the total value of the pay-out, assuming a \$75/barrel benchmark price, would be \$555 million a year.

Chevron's Escravos gas project in doubt

The proposed Petroleum Industry Bill is raising serious questions about the viability of phase 3 of the Escravos gas project being undertaken by

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Chevron Nigeria. The project planned to use gas from the deepwater Agbami field to feed a gas-to-liquids project but the proposed changes in the royalty regime threaten the economic outcome for Chevron.

Sources in Warri and Escravos tell **Nigeria Focus** that parts of the expansion – previously forecast for completion this year – are now on hold, although construction has been going ahead. At stake is a major investment and an important project for local services companies.

The contract specified that it would be carried out by subsidiary companies of **Acergy – Globestar Engineering Company (Nigeria) and Acergy West Africa.**

The contract is described as an engineering, procurement, fabrication, transportation, installation, hook-up and commissioning contract. It states that Chevron desires to design, fabricate, construct, install, hook-up and commission new offshore pipelines and associated facilities near Escravos, collectively referred to as the Escravos gas project phase 3B offshore pipelines (EGP3B).

The project – also referred to as the EGP3B+ pipelines project – has been undertaken in three stages:

- > The first stage involves the modification of six production platforms, construction of a 33km gas transmission pipeline and the upgrade of the Meren gas lift platform with 50 million standard cubic feet of compression.
- > The second stage involves the modification of five production platforms and the construction of gas gathering pipelines.

> The third stage, which is the EGP3A offshore stage, involves the construction of transmission pipelines and the hook-up and commissioning of the Meji GGCP and Okan NWP.

The contract states that the project will gather associated gas from nine production platforms. Of the nine, seven are in the North Offshore Area and two in the South Offshore Area.

The North Offshore Area pipelines to be installed are: Isan PP to Parabe PP; Opolo PP to Malu PP WYE subsea tie-in; Malu PP to Parabe PP; Parabe PP to Meren GGCP; Ewan PP to Meren GGCP; Meren 2 PP to Meren GGCP, and Meren 1 to Okan Preinstalled WYE subsea tie-in. The Southern Offshore Area pipelines are: Delta PP to Meren GGCP and Tapa PP to Delta PP WYE subsea tie-in. The project also includes 15 risers associated with the pipelines. There are two new WYE subsea tie-in connections in the infield pipelines to be designed, fabricated and installed and one flanged connection to an existing WYE on the export pipeline. Forty-two pipeline crossings have been identified to be installed.

The contractor is responsible for everything contained in the contract's scope of work unless otherwise specified. The contractor is also not expected to rely on Chevron's support on any

aspect of the project in its execution stage unless otherwise specified.

Chevron required Acergy WA and Globestar to provide a guarantee from their parent company. The contract states however that the obligations guaranteed by Acergy and the liabilities assumed by it under the guarantee shall not be greater than those of its subsidiaries.

The contract sum is \$500 million and payment is to be based on actual monthly progress. For this purpose, it is divided into 36 months

The EGP3B contract provides for 'Nigerian content'. For the purpose of the project, Chevron defines Nigerian content as service, activity or good that is wholly or substantially of Nigerian origin, is capable of providing meaningful development and/or whose procurement and utilisation in the project will have an eventual multiplier effect on the economy. Chevron however goes on to state that domiciling expatriate personnel in Nigeria to execute the work shall be understood as being compliant with Nigerian content.

Critics have faulted this clause, stating that it defeats the purpose of the Nigerian content and merely pays lip service to the phrase and begs the question of how domiciling expatriate

personnel in Nigeria can be considered as being wholly or substantially of Nigerian origin.

The contract also makes reference to Nigerian host community relations, setting out the responsibilities of Acergy and Chevron to host communities.

Reference is also made to Nigerian host community labour, with Chevron specifying that skilled and unskilled labour should where possible be employed from the local host community and sets out Chevron and Acergy's responsibilities in this regard.

Chevron and Grinaker in stand-off

Oil servicing company **Grinaker** is embroiled in a face-off with **Chevron Nigeria** over the contract by Grinaker's sub-contractor **Weco** to fabricate jackets for Chevron's Agbami field development.

According to a source, Grinaker is holding back in delivering the contract performance and trying to use non-performance to secure more funds from Chevron. Chevron is reportedly not amused by Grinaker's tactics, which has strained relationships between the parties, and is contemplating its options. >>>

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Grinaker's tactic is similar to that employed by **Henry MacPepple's Adamac**, which is alleged to have used strong-arm tactics to persuade international oil companies to boost contract values. The fear is that Grinaker will ruin its reputation with the IOCs if it persists in its actions.

Crude carrying contracts awarded

The federal government awarded five new crude oil lifting contracts on 4 December. The additional term contracts take advantage of increased crude production following the relative success of the government's amnesty in the Niger Delta.

Crude oil production recently increased to 1.85 million b/d of crude oil and 600,000 b/d of condensate. Announcing the increase in production, minister of state for petroleum **Odein Ajumogobia** linked it to the current peace being enjoyed in the Niger Delta as a result of the amnesty. This had made it possible to repair damaged pipelines, with a resulting increase in production.

Crude oil output is set to average 2.01 million b/d in January. Nigeria has the capacity to produce more than 3 million b/d of crude oil.

Four of the new 30,000 b/d term contracts go to trading companies: **Astana**, **Crudex**, **Central** and **Vermont**, with the fifth being a country-to-country deal with Sierra Leone. The chairman of oil trading company **Taleveras**, **Igho Sanomi**, has been linked with Astana.

JV cash calls threaten 2010 budget

The House of Representatives has threatened to withhold passage of the 2010 Appropriation Bill until **Nigerian National Petroleum Corporation** (NNPC) and its joint venture (JV) partners justify the \$5 billion JV cash call in the proposed budget.

The threat follows the reaction of the Revenue Mobilisation Allocation and Fiscal Commission (RMFAC), which has decried the fact the country was almost grinding to a halt due to pressures exerted on the Federation Account by huge withdrawals to meet cash call obligations.

House committee on finance chairman **John Enoh** expressed reservations over the proposed cash call, stating that a similar provision in the 2009 budget had not produced an increase in revenue accruing to the Federation Account in the past four months, yet \$161.431 million was paid as cash calls to JV companies in the period.

Chinese oil deal on course

The federal government has disclosed that China's \$50 billion offer to acquire oil assets is still on course. State-run **China National Offshore Oil Corporation** (CNOOC) wants to acquire the equivalent of 6 billion barrels in oil reserves.

Presidential adviser on energy matters **Emmanuel Egbogah**, a leading proponent of

the deal, has even said that it could help with the funding of **Nigerian National Petroleum Corporation**.

According to Egbogah, the country's inability to fund its joint ventures with international oil companies had negatively impacted on capital expenditure requirements for increasing production levels from the existing joint venture fields.

Egbogah claims Nigeria's funding shortfall has steadily increased to \$6 billion from a few million dollars in the early 1970s. As a result, the government has to consider alternative funding methods.

Oil industry executives however feel that the government is using the Chinese offer to leverage its position in contract renewal negotiations with its existing IOC partners.

Kaduna power plant contract awarded

The federal government has awarded a \$230 million contract for the installation and commissioning of a dual-fired (low-pour fuel oil/gas) 150-200MW power plant in Kaduna to **GE Oil and Gas** and **Rockson Engineering Nigeria**. Rockson is controlled by **Joseph Arumeni-Ikhide**, a confidant of the former governor of Rivers state, **Peter Odili**.

The contract includes the design, manufacture, supply and testing of eight gas turbines in the 150-200 MW range. Under the contract, Rockson Engineering will be responsible for the

supply of engineering, balance of plant, erection, commissioning, site works and a 132kW substation.

NIGER DELTA

Yar'Adua's absence stalls post-amnesty programme

The government's amnesty programme, which includes the re-integration and rehabilitation of former militants, has suffered a major setback because of President **Umaru Yar'Adua's** absence for medical treatment in Saudi Arabia. He is not present to approve post-amnesty programmes.

One such programme includes the creation of a committee which will be responsible for the re-integration of militants. The constitution of the committee was until recently suspended pending the president's return.

The government had mandated state governors in the Niger Delta region and ex-militant commanders to nominate representatives to serve in the re-integration committee. Though the governors and ex-militant leaders have complied with this directive, the screening of the nominees had been stalled, following the excuse that Yar'Adua has to approve them personally before they are included in the Presidential Committee on Disarmament and Amnesty for Militants in the Niger Delta, headed by minister of defence **Godwin Abbe**. >>>

As a result of the delay, some ex-militants recently took to the streets of Port Harcourt, attacking citizens, setting fire to shops and residences and reportedly raping some female students of the University of Port Harcourt, which is next to the ex-militants' camp. The militants claimed to be protesting the non-payment of their allowances. Students at the university have called for the relocation of the ex-militants.

Following the protests, the government set up a presidential committee and four sub-committees on the Niger Delta. The committees are:

- > The Presidential Committee on the Modalities for the Involvement of Host Communities in the Ownership of Petroleum Assets in Nigeria;
- > Disarmament Rehabilitation and Re-Integration Sub-Committee;
- > Oil and Gas Asset Protection Sub-Committee;
- > Environment Clean-Up Remediation Sub-Committee, and
- > Infrastructure Development Sub-Committee

The committees were inaugurated by vice president **Goodluck Jonathan**, who explained that they were an attempt to revive the amnesty programme.

The presidential committee is chaired by the minister of state for petroleum and includes the minister of state for finance, special adviser to

the president on petroleum matters, special adviser to the president on communications, representative of the secretary to the government of the federation (SGF), solicitor general of the federation/permanent secretary, federal Ministry of Justice, representative of **Nigerian National Petroleum Corporation**, three former militant leaders and two community leaders.

The committee's mandate is to examine the constitutional framework for effecting host communities participation; to determine the definition of host communities for the purpose of benefiting from the proposal; to examine the level of and mechanisms by which equity would be acquired by host communities including funding; to examine how equities assigned to host communities will be managed; to examine the mechanisms for securing host communities' contribution for future investment and to make appropriate recommendations to the government. The committee has one month to submit its report.

The disarmament, rehabilitation and re-integration sub-committee is chaired by the minister of defence and includes the minister of Niger Delta affairs, special adviser to the president on the Niger Delta, representative of the SGF, military coordinator of the amnesty programme, representative of the Niger Delta

Governors' Forum, representative of the inspector general of police, senior special assistant to the president on Millennium Development Goals, national coordinator of **National Poverty Eradication Programme** (Napep), director general of **Small and Medium Enterprises Development Agency of Nigeria** (Smedan), director general of NOA, director general of NDE, executive secretary of **Petroleum Trust Development Fund** (PTDF), managing director of **Niger Delta Development Commission** (NDDC), four representatives of the ex-militant groups, **Timiebi Koripamo-Agary**, two prominent leaders of local communities, to be appointed by the president.

The oil and gas asset protection sub-committee has 14 members and will be chaired by the minister of state for petroleum.

The infrastructure development sub-committee has 12 members and will be chaired by the minister of Niger Delta affairs.

The environment clean-up and remediation sub-committee is made up of 14 members and chaired by the minister of environment.

Critics maintain that the government is merely paying lip service to its amnesty programme by inaugurating the committees as a reaction to the recent upheavals in the Niger Delta.

Economy and business

Concerns raised over toxic loans plan

There has been much debate about the viability of the proposal by the **Central Bank of Nigeria** (CBN) to set up an asset management company (AMC) to hold the toxic assets of banks.

Public AMCs have been used by several countries to restructure and resuscitate their financial industries. Countries such as South Korea, Malaysia and Thailand have been successful in ridding their banks of non-performing loans (NPLs) through AMCs. Ghana also experimented with its version of an AMC, called **Npart**, in the early 1990s. Most similar to Nigeria's proposed AMC is the **National Asset Management Agency** recently launched by Ireland to deal with NPLs occasioned by the crash of the Irish property market.

According to the minister of state for finance **Remi Babalola**, Nigeria's AMC would assist banks in improving their capital and liquidity positions by taking over toxic assets, with the aim of restructuring and improving the balance sheets of banks as well as enhancing the flow of credit. It intends to redistribute the losses incurred by banks on share-backed loans, restoring liquidity to the banking industry.

The AMC will:

- > operate through a designated special purpose vehicle that will manage the NPL restructuring process; >>>

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- > have a 10-year life span;
- > have a N250 billion capital base;
- > be legitimised through the AMC Bill now with the National Assembly.

Theoretically, the AMC is not dissimilar to a 'bad bank': the term for financial institutions created to hold NPLs owned by a federally insured or guaranteed bank. They are created to address challenges arising during an economic credit crunch wherein private banks are allowed to take problem assets off their books.

How will the AMC work?

The toxic assets of the banks will be bought by the AMC at a discount to the book value. The discount percentage will be determined by the AMC. A major issue will be determining the price of the toxic assets. There have been fears that the AMC will be hijacked by unscrupulous bank managers hoping to cash in and make huge profits by overpricing their toxic assets and selling them off to the AMC. The managing director of one of the Nigerian banks is allegedly already scheming on how to exploit the AMC and make a profit out of the toxic assets.

It is important to note that the AMC is not supposed to be a profit-making venture for either the banks or the federal government. It is specifically targeted at addressing the systemic issues in the banking industry. If the government makes a profit in the process, that should ultimately benefit taxpayers but the banks should certainly not be looking to cash in. The amount being invested into the AMC by the government, N250 billion, could certainly be better used to develop infrastructure for the Nigerian populace.

If the AMC is to be successful, it has to conduct its own independent valuation of the book value and current market value of the toxic assets and make its own decision on the price at which the assets will be purchased.

Economists speaking on the pros and cons of the proposed AMC have said that it is essential that bad assets are taken off the balance sheets of the banks and that the government separates the good assets from the bad to clean up the financial system. But they add that, if the government buys the toxic assets at a high price that does not reflect their underlying value, it will be giving a massive subsidy to bank shareholders and unsecured creditors, creating a moral hazard.

The AMC will need to give a breakdown of the toxic assets to be transferred by the banks as well as the book value and market value of the assets.

Another pertinent issue in the structure of the AMC is that it will be 100% government-owned, with 60% held the CBN and 40% by the Ministry of Finance. This ownership structure has been criticised as it is not beneficial to have an AMC solely owned by the government.

Professor **Patrick Honohan**, a specialist in international financial economics and development, has stated that there is overwhelming international evidence that government-owned banking systems serve their economies poorly. More so, the AMC will be deprived of the risk-sharing benefits that come with having private sector participants.

Private sector participants would also reduce the likelihood that the toxic assets will be overpriced, as they will be competing with one another to establish the actual price of the assets. Most importantly, the involvement of the private sector would give the AMC substantial purchasing power, which will in turn make the most of taxpayer resources.

The life span of the proposed AMC, at 10 years, is also a sore point. Financial analysts and economic experts say that this is too long, as it will make efficient planning cumbersome. Most banking crises last about five to six years and that period is a more logical timeline for planning purposes. Other analysts have recommended a three- to four-year life span for the AMC as a longer tenure may lead to slower resolution progress and larger losses.

CBN reveals value of non-performing loans

The **Central Bank of Nigeria** (CBN), has disclosed that the total value of non-performing loans (NPLs) of the eight banks indicted in its industry-wide audit is N1.5 trillion, accounting for 60.75% of the financial industry's total NPLs, whilst the total deposit liability of the eight banks was N3.019 trillion.

The indicted banks accounted for 35.6% of banking industry assets, 36.11% of loans, 34.52% of deposits and 35.6% of total industry assets as at June 2009.

CBN governor **Lamido Sanusi**, defending the decision to bail out the banks, has said the move

was necessary because of the systemic importance of the banks and the potential negative impact liquidation could have had on the economy.

Liquidity support and recapitalisation, which preserve the status of the banks as going concerns, were the only logical options according to Sanusi. If the CBN had not chosen the bail-out option, Sanusi explained, a systemic failure of the banking sector as a whole might have occurred.

Sanusi under fire on advisers

Sanusi is meanwhile beginning to attract criticism for his reliance on a select group of advisers. Sanusi's core advisers include the chairmen of **Stanbic IBTC**, **Atedo Peterside**, and **Oando Nigeria**, **Wale Edun**.

Sanusi obviously needs advisers; his background is in risk management and he is only beginning to understand the regulatory and supervisory role of the CBN. But the critics - some linked to banks affected by CBN investigations - say that Sanusi's dependence on a small group of advisers prevents him from being objective and may handicap him in his bid to restructure the financial industry.

Top managers leave Intercontinental Bank

Intercontinental Bank Nigeria has eased out 26 of its top management staff. A statement released by the newly appointed management of the troubled bank revealed that the managers exited voluntarily, to make way >>>

for the restructuring of the bank. A press release praised the sacrifice made by the affected senior management, stating that it was their contribution to the bank's recently launched 'Project Transformation'.

Project Transformation, launched by new managing director **Mahmoud Lai Alabi**, is a three-stage plan aimed at stabilising, re-building and consolidating the bank for greater efficiency and profitability.

Consultants shortlisted for ports master plan

The **Nigerian Ports Authority's** advertisement for expressions of interest for the provision of consultancy services for the development of the national ports master plan resulted in 18 bids from 15 companies.

The shortlisted consultants include:

- > **CPCS Transcom International**, in association with **DHV Group**, **Seaport Consulting**, **Triple E Systems** and **Margnartis Finance & Investment**;
- > **Antwerp Port Consultants** in joint venture with **CARES Consultants UK** and **International Maritime and Dredging Consultants**;
- > **AIM Consultants** in association with **Scott Wilson UK**;
- > **Royal Haskoning** with **Haskoning Engineering Nigeria**.

CPCS Transcom is a Canadian infrastructure and development consultancy firm, with expertise in railway construction, marine, ports, roads, urban transit, multi-modal and power sectors.

CPCS has previously worked in Nigeria, and was the company responsible for the privatisation of the NPA. CPCS undertook responsibility for the design and establishment of a general transport sector regulator; restructuring of the NPA into independent port authorities and concessioning of all 25 terminals of the NPA in line with the landlord ports model. CPCS was the primary consultant overseeing the reform of the NPA and provided transaction advisory services for the privatisation of the NPA.

DHV Group, which proposes to work in association with CPCS, is a provider of consultancy and engineering consultancy services. DHV's operations in Africa are conducted from its South African base, where it has a strong presence. DHV conducts its African operations through subsidiary companies **SSI** and **Turgis**.

Seaport Consulting, the third partner in the CPCS bid, like DHV Group, has a strong presence in east and southern Africa, where it has undertaken projects relating to the analysis of the port and tug barge systems in Madagascar, design and review of designs in South African port terminals and facilitating bids for the container terminal operating concession for the port of Dar es Salaam, Tanzania.

Triple E Systems is a US-based company that provides consulting services in engineering, energy, environment and climate change. It is affiliated to **Triple E Associates**, a Nigerian registered company that works with its US parent company on projects in Nigeria and other west African countries.

Antwerp Port Consultants is a subsidiary of the **Antwerp Port Authority** of Belgium and operates through the **Antwerp Port and Engineering Consultancy (APEC)**. Its stated objective is to help developing countries expand their port facilities and introduce new port-related technology.

The proposed joint venture with International Marine and Dredging Consultants (IMDC) will not be the first such partnership as IMDC was called in by APEC to provide technical assistance on a research mission on environmental problems in four of Morocco's ports. IMDC is a design and engineering consulting firm based in the Netherlands.

AIM Consultants is owned by well-known Syrian businessman **Amin Moussalli**. AIM, which may be considered the only indigenous company on the list of shortlisted consultants, was involved in the 2002 field project assessment on reducing the impact of flooding in Lagos. It was also responsible for the design of the National Assembly complex in Abuja, the Port Harcourt port rehabilitation and Lokoja and Jos South master plan projects, among others.

AIM's proposed partner Scott Wilson is a UK-based integrated design and engineering consultancy firm. The firm was responsible for the design of a new quay wall for an extension to the West African Container Terminal at Onne port in Nigeria.

Royal Haskoning is a Netherlands-based engineering consultancy firm. Its areas of expertise include urban areas and buildings, infrastructure and ports, energy, water and environment. If successful in its bid, it will be working with its Nigerian subsidiary Haskoning Engineering Consultants Nigeria. Haskoning Engineering Nigeria was formerly chaired by the late Kano politician, **Ahmadu Rufai**. The firm was recently awarded a N402.3 million contract for the appointment of a prime consultant for the dredging of lower river Niger from Warri, Delta state, to Baro, Niger state.

The national ports master plan project is to study port traffic, security and decongestion of the ports. This in line with the NPA's plan to design a 25-year port development plan, aimed at permanently decongesting the nation's sea ports. The terms of reference for the master plan were drafted by the **International Maritime Organisation**.

Local critics have expressed dismay that the list of shortlisted consultants appears to favour mainly foreign consultants, given that the NPA master plan is a sensitive issue germane to the nation's security.

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