

REPORT BY THE AD-HOC COMMITTEE ON THE TRANSACTION INVOLVING THE FEDERAL GOVERNMENT AND SHELL/AGIP COMPANIES AND MALABU OIL AND GAS LIMITED IN RESPECT OF THE SALE OF OIL BLOC OPL 245.

ABBREVIATIONS

1. HAGF-Honourable Attorney General of the Federation
2. SNUD- Shell Nigeria Ultra Deep Ltd
3. SNEPCO- Shell Nigeria Exploration and Production Company Ltd
4. NAE- Nigeria Agip Exploration Ltd
5. FGN- Federal Government of Nigeria
6. PSC- Production Sharing Contract
7. MOGL- Malabu Oil and Gas Ltd
8. PSA- Production Sharing Agreement
9. OPL 245 – The License to operate Bloc 245
10. Bloc 245- Indigenous Policy Programme Acreage
11. USD- United States of America Dollars
12. CITA- Companies Income Tax Act
13. CAMA- Companies and Allied Matters Act
14. HMPR- Honourable Minister of Petroleum Resources
15. PSF- Permanent Secretary Finance
16. HMSF- Honourable Minister of State, finance
17. AGF- Accountant General of the Federation
18. ICSID- International Centre for Settlement of Investment Disputes
19. FIRS- Federal Inland Revenue Service

PREAMBLE

The House of Representatives debated a motion on the transaction involving the Federal Government and Shell/Agip Companies and Malabu Oil and Gas Limited in respect of Oil Block OPL 245 and resolved vide {**HR. 111/2012**} to set up an Ad-hoc Committee to investigate the matter.

The purpose of the investigative hearing was to further examine the alleged shady sale of OPL 245 to Shell/Agip Consortium for the sum of **One Billion, Ninety Two Million United States Dollars (\$1,092,000,000.00)** and the

transfer of the said sum to Malabu Oil & Gas Limited as compensation for the prior interest in the oil bloc amongst others.

Pursuant to the above and Sections 62, 88 and 89 of the Constitution of the Federal Republic of Nigeria and the House inherent powers, the Committee organized a Public/Investigative Hearing.

The House expressed concern that enough due diligence was not observed before granting a new concession and that the concession will bring disproportionate revenues and affect the image of the country negatively.

The public hearing was not at the instance of a petition but at the instance of the House Resolution. The investigation focus dwelt on the transaction involving FGN/Shell/Agip/Malabu Oil and Gas Ltd. The procedure and the modalities which consummated the arrangement as the course of justice can easily be circumvent, when position of our Laws are only cited to back manifestations other than procedures, that led to their actualization. It is illegal and incoherent procedures that do emerge attendant conflicts.

2.0 MANDATE

1. To investigate the transaction involving the Federal Government and Shell/Agip Companies, and Malabu Oil and Gas Limited in respect of Oil Block OPL 245.
2. Further examine the alleged shady sale of OPL 245 to Shell/Agip Consortium for the sum of \$1,092,000,000.00 {one billion and ninety two million USD} only and the transfer of the said sum to Malabu Oil & Gas Ltd as compensation for the prior interest in the oil bloc amongst others

3.0. MEMBERSHIP

- | | |
|--|----------|
| 1. Rt. Hon. Leo Ogor (Deputy House Leader) - | Chairman |
| 2. Hon. Muriano S. Ajibola | Member |
| 3. Hon. Dakuku Peterside | Member |
| 4. Hon. Bassey Ewa Eko | Member |
| 5. Hon. Jagaba Adams Jagaba | Member |
| 6. Hon. Victor Ogene | “ |
| 7. Hon. Ali Yakubu | “ |

- | | |
|--------------------------|---|
| 8. Hon. John Dyer | “ |
| 9. Hon. Debo Ologunagba | “ |
| 10. Hon. Peter Akpatason | “ |

SECRETARIAT

- | | |
|---------------------------------|---------------------|
| i. Mr. Isiaka Nurudeen Akinlaso | Clerk |
| ii. Barr. Funsho Babalola | Asst Clerk |
| iii. Felicia Moemeke | Legislative Officer |
| iv. Glory Udeogu | Legislative Officer |

4.0. METHODOLOGY

In the discharge of its assignment, the Ad-Hoc Committee held several meetings and took major decisions on modalities for the dispatch of its duties as follows:

- i. Letters requesting for information to major stakeholders: Ministry of Petroleum Resources- Ministry of Finance, NNPC, DPR, Ministry of Justice, Central Bank of Nigeria, EFCC, etc.
- ii. Adverts in the print media calling for memoranda from other identified stakeholders and the General Public
- iii. Announcements in the Electronic media {Television}
- iv. Contacts through emails, telephones, reminders and internet services
- v. Scrutiny of available instruments {1999 Constitution, Petroleum Act, CAMA, CITA and Deep offshore and Inland Basin Production Sharing Contract Act were extensively deployed and perused}
- vi. Conduct a 3-day Public Hearing declared opened by the Rt. Hon. Speaker.

5.0. CONCEPT

The Oil Bloc OPL 245 is an oil prospecting License with the objective to deepen and facilitate the indigenous participation in the upstream sector. In

Other words, it is a platform that would enable indigenous oil companies acquire know how in the deep offshore sector and in furtherance of the Indigenous Exploration Programme Policy introduced by the Federal Government in the early 90's. The Policy was not designed to encourage international oil companies who are already major players in the industry.

The benefit of the Indigenous Programme includes;

1. Encourage effective development of indigenous capability in the upstream sector of the oil Industry.
2. Partnership with international oil companies as technical partners.
3. Resultant transfer of deep offshore capabilities and competences to indigenous oil companies.

6.0. MEMORANDA

The following bodies submitted memoranda:

i. ATTORNEY GENERAL OF THE FEDERATION

The office of the Attorney-General of the Federation duly represented by the HAGF in their memoranda apprised the Committee of the steps taken on behalf of the Federal Government of Nigeria by the Ministry of Justice and the Ministry of Petroleum Resources to resolve the dispute over the OPL 245. He recalled that in furtherance of the Indigenous Exploration Programme Policy introduced by the Federal government in the Early 1990's to encourage effective development of Indigenous capability in the upstream sector of the oil industry, Malabu oil and Gas Ltd and other indigenous oil and gas companies were allocated oil blocs which they are to develop in partnerships with international oil companies as Technical partners.

Malabu Oil & Gas Ltd was allocated OPL 245 in April 1998 and in accordance with the Terms of the grant, it appointed Shell Ultra Deep Limited {Shell} as its technical partner. The two companies executed relevant agreements including a joint operation agreement in 2001. SNUD took 40% participating interests in the Venture in a farm-in-agreement and also signed agreement with Malabu as its technical partner for the Venture.

Malabu's license for Bloc 245 was subsequently revoked by the Federal government on 2nd July, 2001. Exxon-Mobil and SNUD were invited in April 2002 to bid for OPL 245 despite subsisting contractual agreements between Malabu and SNUD with respect to OPL 245. Malabu contended that the revocation of its license on Bloc 245 was less than transparent

and smacked of inducement and connivance from SNUD its technical partner. Malabu contended also that the subsequent re-award of OPL 245 to SNUD by the Federal Government was done under questionable circumstances. He stated that, it also smacks of sharp business practises on the part of SNUD to bid for a Block for which it had subsisting technical agreement with another company. And cognisance must also be taken of government underlying policy decision of encouraging the participation of indigenous oil and gas companies in the Upstream Sector of the oil industry. A policy that was not designed to encourage international oil companies who are already major players in the industry to take over concessions granted to indigenous companies who are small/minor players in the industry at the moment.

Within the pendency of an appeal filed by Malabu, an amicable settlement was entered into between Malabu and the Federal government. And in compliance with the terms of settlement executed by the parties on the 30th of November 2006, OPL 245 was fully and completely restored to Malabu in consideration for its withdrawal of the appeal. SNUD however contented the terms of settlement between the Federal government and Malabu at the international centre for the settlement of investment disputes.

Several meetings were held between the Presidency, Ministry of Petroleum Resources, SNUD and Malabu to resolve the dispute, no satisfactory outcome was achieved.

In 2012, according to the HAGF, when this administration came to office (The President Jonathan Administration), Malabu Petitioned the Federal Government to implement the terms of the out of court settlement of 30th November 2006 on the basis of which they had discontinued their appeal. Government also took cognisance of the pending cases instituted by SNUD against FGN, including Bilateral Investment Treaty {BIT} pending at the International Centre for the settlement of investment disputes.

To resolve all the contending claims, in a satisfactory and holistic manner due regard was given to the terms of settlement of 30th November 2006 already reduced to orders of the Court. The underlying policy of

encouraging the participation of indigenous oil and gas companies in the upstream sector of the oil industry and the fact that Shell had substantially de-risked Block 245, a resolution Agreement dated 29th April 2011 was executed wherein the FGN agreed to resolve all the issues with Malabu in respect of Bloc 245 amicably and Malabu agreed that it would settle and waive any and all claims to any interest in OPL 245

In furtherance of the Resolution Agreement, SNUD and ENI agreed to pay Malabu through the FGN acting as an obligor, the sum of \$1,092,000,000.00 in full and final settlement of any and all claims, interests or rights relating to or in connection with Bloc 245 and Malabu agreed to settle and waive any and all claims interest or rights relating to or in connection with block 245 and also consented to the re-allocation of Bloc 245 to Nigerian Agip Exploration Limited {NAE} and Shell Nigeria Exploration and production Company Limited {SNEPCO} .

ii. THE MINISTER OF PETROLEUM RESOURCES

The Ministry of Petroleum Resources duly confirmed that the Ministry by a letter dated 29th April, 1998 allocated two oil prospecting licenses OPL 214 and 245 to Malabu Oil & Gas Limited.

However it was not until 25th May, 1999 that Malabu delivered three bank drafts in the Name of PTDF to the Department of Petroleum Resources (DPR) in the total sum of USD2,050,000 Consisting of part payment of signature bonus in the sum of USD10,000. The sum of N50,000 representing the application fee was also paid by Malabu on 3rd June 1999.

OPL 245, though an indigenous policy programme acreage by a virtue of a condition attached to the allocation. Shell Nigeria Ultra Deep Limited (SNUD) by a farm-in-Agreement and Deed of Assignment dated 30th March,2001 farmed into OPL 245 and acquired a 40% participating interest in the said OPL 245 and consideration for paying the balance of the signature bonus due on the said Block. SNUD caused a bank draft in the sum of USD17, 960, 000 being the balance of the bonus to be delivered to DPR. However the bank draft was not realised. Efforts were made by the parties to represent the draft for payment.

Whilst the efforts were on going, The Special Assistant to the President on Petroleum conveyed to DPR on 2nd July 2001, the decision of the Federal Government to revoke the allocation of the OPL245 to Malabu. Consequently the allocation of OPL 245 was revoked and withdrawn via a letter dated 2nd July 2001.

The Government subsequently invited Exxon Mobil, Chevron and SNUD to bid for the re-award of OPL 245. SNUD won the bid for the re-award of OPL 245. SNUD won the bid by bidding to pay a Signature Bonus of USD210, 000, 000. SNUD was awarded the Block on a production sharing basis by a letter dated 23rd May, 2002.

Malabu contended that the award of the Block to SNUD smacked of Lack of integrity on the part of SNUD. Malabu initiated an action in a suit against the Federal Government seeking interlia a declaration that the revocation is illegal and a re-instatement of its interest. In addition to the Legal proceedings Malabu petitioned the House of Representatives.

The House directed the FGN to reverse the award of the Block to SNUD and return it to Malabu. The House deprecated the conduct of SNUD in bidding for the same block in respect of which it had a valid farm-in-Agreement with Malabu and found that there was complicity on the part of SNUD.

Subsequently, an amicable resolution of the litigation was reached between Malabu and the Federal Government of Nigeria by means of a settlement as contained in Terms of Settlement executed on 30th November, 2006. The Terms of Settlement included a restoration of the said oil block to Malabu. OPL 245 was thus restored to Malabu. Pursuant to the said Terms of Settlement, Malabu caused its appeal lodged against the striking out of its case by the Federal High Court to be withdrawn on the basis of a Notice of Discontinuance of the said appeal dated 16th January, 2007.

In furtherance of the Settlement between the Federal Government of Nigeria and Malabu, the Federal Government of Nigeria re-awarded OPL 245 to Malabu vide letter dated December, 2006 with a new signature bonus of Two hundred and ten million United States of America Dollars

(\$210,000,000) to be paid less the sum of Two million and Forty Thousand United States of America Dollars (\$2,040,000) already paid by Malabu.

It is important to note that the Settlement Agreement aforesaid between Malabu and the Federal Government received the approval of Chief Olusegun Obasanjo GCFR, the President of the Federal Republic of Nigeria at the time. In a letter dated 2nd December, 2006 addressed to Malabu Oil and Gas Limited by Dr Edmund Daukoru, the then Minister of State for Petroleum resources, it was stated as follows:

“ We refer to the above subject matter and are delighted to convey to you that the President of the Federal Republic of Nigeria and Commander in Chief of the Armed Forces having concluded a review of your legal claims for the return of oil block 245 (OPL 245) has graciously approved and directed as follows:

- 1. That the Federal Government of Nigeria is amenable to an out of court settlement of the claims comprised in the legal proceedings commenced by Malabu Oil and Gas Ltd and consequently has agreed to settle your legal claims for the return of the oil block constituted as OPL 245. The said oil block 245 (OPL 245) shall from the dated hereof and with immediate effect be returned to Malabu Oil and Gas Ltd with full and total reinstatement of all its rights thereto.*
- 2. Any and all previous decisions inconsistent with or purporting to deprive Malabu Oil and Gas Ltd of its rights over the totality of the concessions in the said OPL 245 shall stand absolutely and totally rescinded as if they had never been made.*
- 3. Malabu shall immediately upon receipt of this letter forthwith withdraw, discontinue and or cause to cease any , all every legal proceedings concerning OPL 245 initiated and/or being maintained by Malabu against the Federal Government of Nigeria in respect of the Oil Block OPL 245.*

The position of the Federal Government of Nigeria was conveyed to SNUD by the Minister of State for Petroleum Resources at the time via letter dated 1st December, 2006

“Following a review of expert legal opinions on respondents’ prospects in the legal appeal by Malabu Oil and Gas, Government has decided that the best option against exposure to substantial damage is an out of court settlement.

That Shell is to forgo block 245 to Malabu while Government provides a mutually acceptable substitute of comparable potential against the \$210 million, which Shell has already paid or will be expected to pay as signature bonus.”

The Attorney General of the Federation and Minister for Justice, Chief Bayo Ojo SAN, wrote to the Minister of State for Energy informing him that SNUD had persisted in its claim to the ownership of OPL 245 in spite of the Settlement Agreement between the Federal Government and Malabu. In response, Dr. Edmund Daukoru, the Hon. Minister for energy at the time wrote to SNUD on 11th April, 2007 as follows:

- *The Government of Nigeria and this Ministry have made no suggestion directly nor indirectly against the restoration of the license of OPL 245 to Malabu as an agreed settlement of a dispute between Malabu and the Government of Nigeria.*
- *This Ministry and the Government of Nigeria find it difficult to believe that Shell would have stated otherwise but, in order to prevent confusion, any such statement is untrue and if it has been made, the Ministry seeks an explanation from Shell. It is more puzzling since Shell have told me that they will not interfere in the exercise by Malabu of its restored rights in and over OPL 245.*
- *I trust that the court order of 24th January, 2007 will be respected by all parties and that the position of the Government of Nigeria is clear in restoring without confusion OPL 245 to Malabu Oil & Gas Limited”*

SNUD however, brought proceedings against the Federal Government of Nigeria before the International Centre for the settlement of Investment Disputes (ICSID) in Washington DC

The Federal Government of Nigeria, under the new leadership of President Umaru Musa Yar’ Adua, NNPC, Malabu and SNUD had a negotiation meeting in January 2008, which culminated in a Draft Settlement Agreement redefining the participating equity interest of each

party to the block. It was contemplated that the draft settlement would have been executed by 28th February, 2009. The settlement agreement was however not eventually executed by the parties.

Advice from the Ministry of Justice confirmed that Settlement Agreement dated 30th November, 2006 between Malabu and the federal Government of Nigeria was valid and subsisting.

Accordingly, the Honourable Minister of Petroleum resources by letter dated 2nd July, 2010, allocated OPL 245 to Malabu Oil and Gas Limited subject to payment of signature bonus in the sum of \$210,000,000 less the sum of US\$2,040,000 already paid by Malabu in respect of the said oil block within ninety days from the date of the letter of award.

In order to achieve a comprehensive resolution of all outstanding matters, the Honourable Attorney General of the Federation and the parties met and produced a draft OPL 245 Resolution Agreement which was forwarded to the Minister for Petroleum and NNPC for comments. By a letter dated 28th January, 2011, the legal adviser of NNPC and secretary to the Corporation, Professor Yinka Omorogbe made comments to the resolution Agreement indicating the areas in respect of which, in her opinion, the said agreement was adverse to the interest of NNPC and the federal Government

The Resolution Agreement was then executed on 29th April, 2011, wherein Malabu agreed to relinquish all its claims to OPL 245 in consideration for a payment of compensation by SNUD and Nigerian Agip Energy (NAE) in the sum of \$1,092,040,000 through the Federal Government. Malabu then consented to a reallocation of the said OPL 245 to SNEPCO and NAE.

At the inception of this Administration, the Government of the Federal Republic of Nigeria was already bound by the terms of the Settlement Agreement of 30th November, 2006, which had been approved by President Olusegun Obasanjo and the terms of which were in line with the resolution of the House of Representatives that OPL 245 be restored to Malabu.

All that has been done by the Ministry of Petroleum Resources is to give effect to that Settlement Agreement which had been confirmed as binding

on the Federal Government of Nigeria as a consent judgement. Secondly, the said advice was in line with a resolution of the House of Representatives on the issue.

iii. DEPARTMENT OF PETROLEUM RESOURCES (DPR)

a. Malabu Oil and gas Ltd was awarded OPL 245 a deep water offshore block on a sole risk basis vide letter PI/BAL/3717/S.399/Vol. 1/3 dated April 29, 1998 under the Indigenous Exploration Programme Policy.

b. The award was subject to the fulfilment of prescribed conditions among which was payment of the following statutory fees within 30days of the award:

- i. Fifty Thousand Naira (N50,000.00) application fee
- ii. Ten thousand US Dollars (\$10,000.00) bid processing fee
- iii. Twenty Million US Dollars (\$20,000,000.00) signature bonus

c. On 28th May, 1999, Malabu paid \$10,000.00 and \$2,040,000.00 as bid processing fee and part payment of the signature bonus respectively, while N50,000.00 being the application fee was paid on the 3rd of June 1999

d. Contrary to the terms in b(iii) above, on 9th April 2001 a cheque dated 6th April, 2001 for the sum of \$17,960,000.00 being the balance of the signature bonus issued by Shell Nigeria Ultra Deep SNUD (Malabu's approved technical partner) in favour of FGN (PTDF A/C) was returned by Citibank New York in July 2001 uncleared, as it was marked "acceptance at Citibank Nigeria Counters only"

e. On 2nd July, 2001 the allocation of OPL 245 to Malabu was withdrawn and the title deed revoked based on the directive of the Presidential Adviser on Petroleum and Energy

f. OPL 245 was then put on offer by the Federal Government of Nigeria (FGN) and three (3) companies namely; Chevron, Exxon/Mobil and SNUD bid for the block. SNUD emerged as the highest bidder with an

offer of USD 210,000,000.00 (USD two hundred and ten million) as the Signature bonus on the block.

g. By a letter dated May 23, 2002 Shell Nigeria Ultra Deep (SNUD) limited was awarded OPL 245 by the Government subject to among others, the following conditions:

1. SNUD would be the operator of the block
2. Payment of a signature bonus of USD 210,000,000.00 (USD two hundred and ten million)
3. The block would be operated on Production Sharing Contract (PSC) basis
4. The Signature bonus should be paid within 90 days of the date of the award.

h. By a letter dated November 7, 2002, SNUD was required by DPR to pay US \$1,000,000.00 (USD One million) by Bank Draft into the PTDF Account within 90 days and the balance of USD US\$ 209,000,000.00 (USD two hundred and nine million) SNUD paid into an Escrow Account nominated by the parties (SNUD and Federal Ministry of Finance). Both payments were effected by SNUD by 23rd December, 2003

i. Subsequently, Malabu took an action in the Court of Law challenging the Federal Government of Nigeria (FGN) for revoking the block. (The case was however struck out and Malabu appealed the judgement)

j. On 30th November, 2006, the Federal Government of Nigeria and Malabu entered into an Out-of-Court agreement (the "Settlement Agreement") in final settlement of the dispute between Malabu and FGN wherein Malabu's rights to OPL 245 were fully restored as though same were never revoked. Following this development, a Notice of Discontinuance of Appeal was filed by Malabu at the Court of Appeal dated 16th day of January, 2007

k. Consequent upon the above mentioned resolution agreement, the Honourable Minister of Petroleum Resources in exercise of the powers pursuant to Section 2

(b) of the Petroleum Act No. 51 of 1969 (as amended), on the 11th of May 2011 granted approval for the award of OPL 245 jointly to SNEPCO and NAE

i. The terms of the joint award includes the following:

i. The release of the sum of US\$207, 960, 000.00 (USD Two Hundred and Seven Million, Nine Hundred and Sixty Thousand) being outstanding Signature Bonus on the block which was placed in an escrow account for the allocation of Block 245 telegraphic wire transfer to "CBN/Accountant General of the Federation FGN account with JP Morgan Chase Bank, united States of America"

ii. The conduct of petroleum operations on OPL 245 shall be governed by a production sharing agreement (PSA) between SNEPCO and NAE)

iii. The fiscal terms as provided in the Deep Offshore and Inland Basin Production Sharing Contracts Act Cap D3, Laws of the Federation of Nigeria 2004 shall be applicable to the PSA in respect of OPL 245

Conclusion

In compliance with the grant of approval by the Honourable minister of Petroleum resources dated 11th May, 2011, OPL 245 is henceforth held by SNEPCO and NAE and all rights and interests held by Malabu Oil and Gas Limited in the Block has been completely extinguished.

iii. THE ACCOUNTANT GENERAL OF THE FEDERATION

The Accountant General of the Federation informed the Committee that Nigeria Agip Exploration NAE and SNEPCO and FGN opened an Escrow account into which money was to be paid for the purposes of FGN facilitating the settlement of all and any existing claims and/or issues over Block 245. The details of the account were given as below:

Account Name: NAE/SNEPCO ESCROW

Account Number: 0041429879

Account Type: Demand Deposit Account

Date: 3rd May, 2011

NAE on behalf of NAE and SNEPCO wire transferred the sum of USD 1,092,040,000.00 into the NAE/SNEPCO Escrow account with Number 0041429879, on the same day the total sum of USD 1,092,040,000.00 was moved from this account to the Federal Republic of Nigeria Escrow account Number 0041451493. The monies due to Malabu were to be paid from the account at JP Morgan. The total amount due was USD 1,300,000,000.00. The signature bonus to FGN of USD 207,960,000 was deducted to arrive at Net balance due to Malabu to be \$1,092,040,000.

Following the cognisance of an ex-parte order issued by the high court of justice, Queens Bench Division England in respect of a suit between Energy Ventures Partners Ltd and Malabu Oil and Gas Limited. A sum of USD 215,000,000 was to be paid to the account of the court funds office of England and Wales. While the sum of \$801,540,000.00 paid directly to Malabu. The remaining balance was to be maintained in an interest yielding Account pending further instruction.

On the 23rd August 2011, JP Morgan transferred the sums of \$400,000,000 and \$401,540,000 from the FGN Escrow Account to the relevant Malabu Oil and Gas Accounts as instructed.

iv. PETROLEUM DEVELOPMENT TRUST FUND

The fund submitted that PTDF does not receive Signature Bonus but Department of Petroleum Resources do receive Signature Bonus on behalf of the Federal government of Nigeria. They maintained that for the avoidance of doubt all payments relating to any agreement to prospect for hydro carbon or mining lease is supposed to accrue to the PTDF by virtue of section 1 of the PTDF Act, but however such monies are paid into an account with Central bank of Nigeria under the control of the Accountant General. They receive monies released for its approved projects and programmes. It concluded by informing the Committee, that the PTDF is not competent to say anything concerning the subject investigation

v. **HONOURABLE MINISTER OF FINANCE**

The memorandum recalled the Attorney General's earlier memo to the President dated May 28, 2010 requesting the President's approval for enforcement of the settlement agreement in respect of OPL 245 by Malabu Oil and Gas Ltd. The President duly approved and directed the Ministry of Petroleum resources to;

- a. Implement and give full effect to the terms of settlement agreement dated 30th November, 2006 between Malabu Oil and Gas Limited and the FGN as they are valid and subsisting
- b. Call upon Malabu to pay signature of 210 million US Dollars on OPL 245, less the sum of \$2,040,000 million US Dollars already paid by it in respect of the same Block
- c. Enable or allow Malabu to exercise all rights incidental to and consequent upon the return of Oil Block OPL 245 to it as concessionaire/operator/contractor of the Block and be free to assign or deal in anyway, in whole or in part with any third party as technical partners or advisers or co-contractors in respect of any of the rights to OPL 245
- d. Ensure that Malabu and any of its co-investor or technical partners comply with all the provisions of the Petroleum Act and other applicable legislation/regulations as it effects OPL 245
- e. Ensure that all agencies and departments of government, Shell Nigeria Ultra-Deep Limited (SNUD) or any company acting for it refrains from any further interference with Malabu's ownership and operations of OPL 245

To finally resolve all the contending issues and claims against the FGN, all the parties agreed to execute a Reallocation Agreement to re-allocate Bloc 245 to SNUD. The said Agreement witnessed the confirmation of the full and final resolution with Malabu and SNUD, of all Malabu's and SNUD's respective claims and issues in dispute over Block 245 and a mutual reciprocal release from all claims, under the Resolution Agreement, by all the parties. The said agreement was duly signed on 29th April, 2011.

On 3rd May, 2011, NAE on behalf of NAE and SNEPCO and FGN opened an escrow account into which money was to be paid for the purpose of FGN

facilitating the settlement of all and existing claims on OPL 245. The details of account are as follows:

Account Name: NAE/SNEPCO ESCROW

Account Number: 0041429879

Account Type: DEMAND DEPOSIT ACCOUNT

On 18th May, 2011, the FGN opened an escrow account with JP Morgan Chase through which the facilitation of all payments in respect of OPL 245 to all parties to the settlement was to be made. The details of the escrow account are as follows:

Account Name: Federal Republic of Nigeria Escrow

Account Number: 0041451493

Account Type: Demand Deposit Account

- The total amount due was US\$1,300,000,000
- The Signature Bonus-FGN of US\$207,960,000 was deducted to arrive at net balance due to Malabu to be US\$1,092,040,000
- On 24th May, 2011, NAE on behalf of NAE and SNEPCO wire transferred the sum of US\$1,092,040,000 into the NAE/SNEPCO Escrow with number 0041429879
- On the same day, 24th May, 2011, the total sum of US\$1,092,040,000 was transferred to the FGN Escrow Account with number 0041451493
- On the 25th May, 2011, in accordance with the Resolution Agreement, the money due for Malabu was directed to be paid from the FGN escrow account with JP Morgan Chase to the account of Messrs Petrol Services Co. Limited at Banque Misr Liba Sal, Riad El Solh Street, Account Number: 00200200004380 and from there to Malabu's Account
- Messrs Petrol Service Co. Ltd declined to accept the said payments for onward transfer to Malabu
- On 15th June, 2011, Malabu wrote to the Honourable Minister of state, Finance that they have been unable to access the funds through their bankers in Lebanon and therefore requested that the funds should now be transferred to their accounts with the details below;
 - First Bank of Nigeria Plc., Aminu Kano Crescent, Wuse-Abuja
Account Number: 2018288005

- Keystone Bank Limited, Abiola House, Central Business District
Account Number: 3610042472
- In cognizance of the ex-parte order issued by the High Court of Justice, Queens bench Division, Commercial Court, England dated 3rd July, 2011 in respect of a suit between Energy Ventures Partners Ltd v. Malabu Oil & Gas Ltd, it was agreed that:
 - The amount to be transferred to Malabu is US\$801,540,000
 - The sum of US\$215,000,000 is to be paid to the account of the Court Funds Office of England and Wales
 - The remaining balance was to be maintained in an interest yielding account pending further instruction
- The sum of US\$207,960,000 was paid as signature bonus to the FGN
- On 23rd August, 2011, JP Morgan transferred the sums of US\$400,000,000 and US\$401,540,000 from the FGN Escrow account to the relevant Malabu accounts at First Bank of Nigeria PLC (Account No. 2018288005) and Keystone Bank Limited (Account No. 3610042472)

Following the endorsement of the agreement by the Honourable Attorney General, the permanent secretary finance duly invited Mr President to kindly consider and approve the release of the sum of US\$1,092,040,000 directly to the Account of Malabu Oil and Gas Ltd and subsequently approved on 6th July, 2011.

vi. CENTRAL BANK OF NIGERIA

Explaining their role in the transaction involving the Federal Government of Nigeria and Shell/Agip Companies and Malabu Oil and Gas Limited in respect of oil block OPL 245. Olu Adaramewa representing the CBN said the bank got to know about the transaction on the 9th May 2012 when a credit of USD 207, 960,000.000 was noticed in the CBN/FGN independent Revenue Account No. 4000939134 it maintains with JP Morgan Chase. It subsequently wrote to the Accountant General of the Federation on 13th May, 2011 to inform him of the lodgement by Shell/Agip and requested to know its purpose.

The OAGF responded vide a letter dated 15th June, 2011 acknowledged the lodgement and informed the bank that it was in respect of Signature Bonus on OPL 245. The letter further instructed the lodgement be transferred from the CBN/FGN independent Revenue Account to the

CBN/FGN Accountant General Account No. 400225220, as the former was not the account meant for the lodgement.

Adaramewa added that in line with bank procedure, it sought the Federal Ministry of Finance's authentication of the instruction of the OAGF in respect of the transfer of the lodgement. The Permanent Secretary, FMF vide letter Ref: F.17006/111/130, dated 23rd June 2011 authenticated the transaction.

Consequent upon the receipt of the letter from the Federal Ministry of Finance authenticating the OAGF instruction; on 29th June, 2011 the transfer of USD 207, 960,000 was effected from the CBN/FGN Independent Revenue Account to the CBN/FGN Accountant General Account. Both Accounts maintained with JP Morgan Chase Bank, NA, USA.

Concluding, the CBN invited the Committee to note that the USD207, 960, 000,000 lodgements in CBN/FGN Independent Revenue Account was for the purpose of signature Bonus on Oil Block 245;

- ii. The transfer of the Fund from CBN/FGN independent revenue Account to CBN/FGN Accountant General Account was duly authorised by the OAGF and authenticated by the Federal Ministry of Finance
- iv. CBN only acted in accordance with the mandate received from the OAGF as authenticated by the Federal Ministry of Finance.

vii. SHELL PETROLEUM DEVELOPMENT COMPANY

In its memorandum Shell stated neither Shell Petroleum Development company Ltd (SPDC) nor Royal Dutch Shell (RDS) or was at any point in the past involved in OPL 245. For this reason, this response to your invitation is made by SNEPCO which holds the interest in OPL currently and its affiliate Shell Nigeria Ultra Deep Limited (SNUD), which previously held the interest in OPL 245 currently and its affiliate Shell Nigeria Ultra Deep Limited (SNUD), which previously held the interest in OPL 245.

There was no sale of OPL 245 to any Shell company in 2011. What transpired was the settlement of long standing disputes existing between the Federal Government of Nigeria (FGN) and various parties, including SNUD, over the allocation, revocation and re-allocation of OPL 245

The facts are that, as at 2011:

- a. FGN was not in position to sell OPL 245 because, it had, at different times prior to 2011, already assigned the rights and interest in OPL 245 to both SNUD and Malabu
- b. SNUD and Malabu each had competing claims over OPL 245 for the respective rights and interests granted to them by FGN, dating back many years.

SNUD acquired its interest in OPL 245, by the award of OPL 245 to SNUD on a Production Sharing Contract basis, pursuant to a letter dated the 23 May 2002, from FGN, through the then Honourable Minister of Petroleum Resources, acting pursuant to its powers under the Petroleum Act. Pursuant to the award, SNUD entered into a production sharing contract (PSC) with Nigerian National Petroleum Corporation (NNPC), dated 22 December 2003 for a period of thirty (30) years from 22 December, 2003;

Malabu on the other hand, claimed rights to OPL 245 through a letter of award from FGN dated 29th of April 1998, for OPL 245, followed by the title deed for OPL 245, which was subsequently revoked by FGN on 2 July, 2001.

Notwithstanding the fact that SNUD was conducting operations exclusively on OPL 245 by virtue of its PSC, on the 30th November, 2006 FGN and Malabu executed a Settlement Agreement wherein FGN reallocated OPL 245 to Malabu. By this Settlement Agreement, FGN and Malabu settled the litigation filed by Malabu against FGN over the revocation by FGN of Malabu's interest in OPL 245 in 2001.

Malabu had challenged the revocation of OPL 245 by FGN in 2001 and the subsequent award of the PSC to SNUD through various legal and administrative actions in Nigeria and the USA against FGN and SNUD, both jointly and severally. This included a petition against SNUD before this Honourable House of Representatives in 2002, which resulted in an investigative hearing that ended with a resolution by the House in favour of Malabu in 2003.

SNUD instituted legal action challenging the House of Representatives resolution in favour of Malabu through the courts up to the Court of Appeal.

SNUD also challenged the 2006 reallocation of OPL 245 to Malabu by FGN in a series of dispute resolution proceedings, including arbitration at the international Centre for the Settlement of Investigative Disputes (ICSID), claiming amongst other reliefs, damages against FGN. Hearing of the dispute took place in Paris, France, in March, 2010.

As a result of the various proceedings arising from the disputed ownership of OPL 245 including litigation in Nigeria and the ICSID arbitration proceedings, none of the parties, including the FGN, was able to conduct operations on OPL 245 or to derive any benefit therefrom.

In April, 2011, FGN and the other parties achieved settlement out of court, of the ICSID arbitrations proceedings and all other pending law suits in Nigeria between all or any of the parties of those disputes. Under the terms of this settlement, SNUD received a 50% interest in OPL 245 in place of its PSC. This interest was granted to SNEPCO, at SNUD's request. SNEPCO is the affiliate of SNUD which holds and operates interests in the deep water exploration in Nigeria, where OPL 245 is located.

By the settlement in April 2011:

- a. SNUD's interest in OPL 245, which it obtained in 2002, before its purported nullification by FGN in 2006, was restored, giving SNUD's affiliate company, SNEPCO (at SNUD's request) the ability to resume operations on OPL 245 which had been stopped by the action of the FGN since 2006, and which SNUD had resorted to both litigation and international arbitration to defend and preserve.
- b. FGN has resolved all outstanding issues and disputes relating to OPL 245 and secured a release from all competing claims on the block.
- c. SNUD, on behalf of SNEPCO and NAE, paid to FGN the sum of \$207,960,000 (Two Hundred and Seven Million, Nine Hundred and Sixty Thousand US Dollars only) as Signature Bonus, from the SNUD/FGN Escrow account, wherein it had been placed by SNUD since December 2003.

The following agreement was signed by SNUD and/or SNEPCO with FGN and/or Malabu to effect the settlement reached in April 2011:

- a. Block 245 resolution Agreement dated 29th April 2011, between FGN, Nigerian National Petroleum Corporation (NNPC), SNUD, SNEPCO and Nigerian Agip Exploration Limited (NAE) by which the FGN agreed to reallocate OPL 245 to SNEPCO and NAE as joint license holders.
- b. Block 245 SNUD Resolution Agreement signed 29th April 2011, between FGN, SNUD and SNEPCO. This settled all legal disputes and proceedings between SNUD and the FGN in respects of OPL 245.
- c. Terms of Settlement signed 29th April 2011, between SNUD, SNEPCO and Malabu. This agreement mutually discharges SNUD and Malabu respectively against all claims and awards subsisting in their favour, against each other.
- d. Escrow Agreement No. 2 signed 4th May 2011 between FGN, NAE and SNEPCO. Provides for the payment of the monies due from NAE on behalf of NAE and SNEPCO to the FGN under the Block 245 Resolution Agreement.
- e. Letter dated 3rd May, 2011 from FGN to NAE and SNEPCO notifying SNEPCO and NAE of the release of claims in accordance with the Block 245 Resolution Agreement (item (a) above).
- f. Letter dated 11th May, 2011 from FGN to SNEPCO awarding OPL 245 to SNEPCO and NAE jointly.
- g. Notice of discontinuance signed 29th April between FGN and SNUD filed at the ICSID Tribunal to discontinue and settle the proceedings in respect of the earlier reallocation of OPL 245 by FGN to Malabu.
- h. Escrow Termination Notice signed 3rd May 2011 between FGN and SNUD. Issued pursuant to the Block 245 Resolution Agreement, to release to FGN, the Signature Bonus in respect of the PSC, which had been held in escrow at the execution of the PSC due to proceedings pending against FGN by Malabu over revocation of the block by FGN in 2001.
- i. Escrow Completion Notice of Escrow Agreement 2(item above) and transfer of funds into an FGN Escrow Account (as defined in the said Escrow Agreement), issued upon receipt of letter of release of the claims/disputes from FGN

Payments made in respect of the resolution:

- a. Pursuant to the Escrow Agreement dated 22nd Dec 2003, FGN and SNUD issued a Notice to Escrow Agent (JP Morgan) to terminate the Escrow

Agreement, and pay US\$ 207, 960, 000 into FGN Receiving Account (as defined in the Escrow Agreement), representing the Signature Bonus for OPL 245 and consistent with the terms of the original award of OPL 245 to SNUD in 2002.

- b. Pursuant to the Block 245 Resolution Agreement dated 29 April, 2011, NAE transferred to the JP Morgan Escrow Account No. 2 in accordance with the Escrow Agreement dated 4th May, 2011, on behalf of NAE and SNEPCO the sum of one billion ninety two million and forty thousand US Dollars (\$1,092,040,000). From FGN/SNUD Escrow Account with JP Morgan Chase London-Account No. 25346701, to FGN Receiving Account: CBN/FGN Independent Revenue Account No. 400939134- with JP Morgan Chase, New York.

From JPM Escrow Account No. 2 (FGN, NAE, SNEPCO & JPM Chase Bank NA. (London Branch) Account No. 41429879, to the JP Morgan FGN Escrow Account No. 41451493.

viii. NIGERIA AGIP EXPLORATION LIMITED

In their Memorandum titled "Position Paper of Nigerian Agip Exploration Limited with regard to OPL 245 Transaction" it explained that the entity which entered into the subject transaction is Nigerian Agip Exploration limited and not Nigerian Agip Oil Company. (NAOC) or ENI SPA referred to in the above mentioned letters. The response is made only by NAE which holds the interest in OPL 245.

OPL 245 was not sold to NAE or any affiliate of NAE. An agreement titled Block 245 Resolution Agreement ("FGN Resolution Agreement") dated 29th April 2011, entered into between the Federal Government of Nigeria, Shell Nigeria Ultra Deep Limited (SNUD), Nigerian National Petroleum Corporation (NNPC), Nigerian AGIP Exploration Limited (NAE) and Shell Nigeria Exploration and Production Company Limited (SNEPCO) set out the terms and conditions for the agreed interest of the parties with respect to the Block 245.

The framework of the transaction contained in the said FGN resolution Agreement was essentially that, upon FGN's confirmation of full and final settlement with Malabu and SNUD of all Malabu's and SNUD's respective claims and issues in respect of and over Block 245 and a mutual reciprocal release from all claims on Block 245:

- a. SNUD shall on behalf of SNEPCO and NAE pay to FGN the sum of two hundred and seven million, nine hundred and sixty thousand US Dollars (\$207, 960,000).
- b. FGN shall allocate the Block 245 and cause the grant of the relevant Oil Prospecting License by the Honourable Minister of Petroleum Resources in favour of SNEPCO and NAE as joint license holders under the Petroleum Act Cap P10, Laws of the Federation of Nigeria, 2004.
- c. NAE shall on behalf of NAE and SNEPCO pay to FGN through an escrow account, the sum of one billion ninety two million and forty thousand US Dollars (\$1,092, 040,000)

Pursuant to the FGN Resolution Agreement, on 3rd May, 2011, SNUD paid on behalf of SNEPCO and NAE to the FGN, the stipulated sum of two hundred and seven million nine hundred and sixty thousand US Dollars (\$207,960,000) as the Signature Bonus in respect of Block 245, by releasing the said sum from the escrow account in which it had been placed by SNUD since year 2003 pending the resolution of the disputes over the Block 245. Accordingly, the FGN allocated the Block 245 to NAE and SNEPCO; and the Honorable Minister of Petroleum Resources, in exercise of her statutory powers under the Petroleum Act Cap P10, LFN, 2004, on 11th May, 2011, granted the relevant Oil Prospecting License to NAE and SNEPCO as joint license holders.

Also, as required under the FGN Resolution Agreement, NAE, SNEPCO and FGN entered into an Escrow Agreement ("Escrow Agreement No. 2") with JP Morgan Chase Bank, NA; London Branch ("Escrow Agent"), dated May 4, 2011 for payment of the said sum of one billion ninety two million and forty thousand US Dollars (\$1,092,040,000).

In accordance with the terms of the Escrow Agreement No. 2 and the FGN Resolution Agreement, following receipt of confirmation from FGN that FGN had achieved the full and final resolution of all claims and issues in dispute over Block 245 and obtained a release from all claims on Block 245 from relevant parties as required under the FGN Resolution Agreement, on 23rd May, 2011, NAE and SNEPCO (as

parties to the Escrow Agreement No. 2), by an Escrow Completion Notice dated 23rd May, 2011 and related transmittal letter and fax, instructed the Escrow Agent (JP Morgan) to: (i) release the Escrow Amount in the sum of one billion ninety two million and forty thousand Dollars (US\$1,092,040,000), (ii) irrevocably transfer the said amount to an FGN Escrow Account, as required under the escrow Agreement No.2 , opened by FGN in its name and interest for the purpose of receiving such amount, and (iii) irrevocably transfer to NAE and SNEPCO the interest accrued on the Escrow Account if any, net of any applicable fees and charges not previously paid into the Escrow Account by NAE and SNEPCO.

Apart from the above payments to FGN, and payment of the sum of five thousand Dollars (US\$5,000) as administrative fee to the Escrow Agent, J.P Morgan Chase Bank, no other payment was made by us in relation to the afore-mentioned transaction.

In light of the foregoing, having fully discharged our respective payment obligations under the agreement with the Federal Government of Nigeria (i.e. FGN resolution Agreement) as highlighted above, NAE and SNEPCO are bona fide joint license of the Block 245.

As to how we got to know of the opportunity to acquire a participation in Block 245, we state that being present and operating in Nigeria, this opportunity was well known in the country for a long time. Of public knowledge was the existence of claims of Malabu and Shell over Block 245 and of disputes involving the two companies as well as FGN.

As to our role, we were able to look at the matter in a dispassionate and objective manner with the goal to have the opportunity to enter into Block 245, to our benefit and to the benefit of Nigeria (since Block 245 was not being developed due to the long-standing disputes).

ix. **THE ECONOMIC AND FINANCIAL CRIMES COMMISSION
{EFCC}**

In their presentation delivered by the executive chairman: Mr Ibrahim Lamorde recalled the Commission received a petition in February 2012

written by one A.A Umar & Co on behalf of Pecos Energy limited and Mohammed Sani against one Ednan Aganev of International Consulting Limited of Confederation of Switzerland, Geneva; Consular Service of USA, Mr Rasky Gbinigie of No. 35, Kingsway road, Ikoyi, Lagos and others. The petition bordered on allegations of conspiracy, forgery and altering of forged documents for the purpose of misappropriating the funds of Malabu Oil & Gas Ltd by Chief Dan Etete. Malabu Oil and Gas Ltd is a company incorporated in 1998 and granted oil blocs known as OPL 245 & OPL 214 by the Federal Government.

The petitioners stated that his clients; Alhaji Mohammed Sani and Pecos Energy as well as Kweku Amafegha (representing Dan Etete) were shareholders of Malabu Oil & Gas with an equity ratio of 50:20:30 respectively. They however alleged that Chief Dan Etete subsequently conspired with the company secretary of Malabu Oil & Gas; Mr Rasky Gbinigie to forge board resolutions and file documents purporting to alter the equity structure of the company and also transferred the complainants' shares to one Seidou Munamuna and one Joseph Amaran. Upon discovering this, on 17th October, 2008, Alhaji Mohammed Sani wrote a letter to the Corporate Affairs Commission with reference number AT/CUPNI/VOL.1/129/08 through one Atabo & Co to place a caveat restraining the company from transacting any business or effecting any change in the ownership of the company without his or PECOS Energy Ltd's approval. This he followed up with another letter to the Corporate Affairs Commission dated 6th November, 2008, Mohammed Sani further wrote a reminder to the Corporate Affairs Commission on the earlier stated issues and also wrote a letter through Mr. Mahmud & Co (legal practitioners) to the Registrar of the Corporate Affairs Commission to seek clearance of the status of Chief Dan Etete as a director in Malabu Oil and Gas. In a bid to further press his claim, Mohammed Sani on 21st January, 2010, instituted a civil suit no. FHC/ABJ/CS/59/2010 and FHC/ABJ/CS/51/10 against the following:

- a. Malabu Oil & Gas Ltd
- b. Mr. Kweku Amafagha
- c. Mr. Hassan Hindu
- d. Mr. Munamuna Seidogha

- e. Mr. Amaran Joseph
- f. Mr. Rasky Gbinigie
- g. Corporate Affairs Commission
- h. PECOS Energy Ltd
- i. Shell Petroleum Development Co. Nig. Ltd

This action was however frustrated due to the disappearance of the court file from the court.

Despite the above events, they alleged that between 2009 and 2011. Shell Nigeria Ultra Deep Company (SNUD), Nigeria Agip Exploration Ltd (NAE) and Shell Nigeria Exploration and Production Ltd (SNEPCO) entered into negotiation for the acquisition of OPL 245 being an asset of Malabu Oil & Gas Ltd and same was acquired through Mr. Dan Etete for a consideration of USD 1.3 Billion without recourse to the rightful owners being the complainant. Subsequently, the sum of USD 801, 091, 000 was transferred from a JP Morgan Chase account into the accounts of Malabu Oil & Gas Ltd solely controlled by Chief Dan Etete. Following this, the petitioners reported the present matter to the Commission.

INTERIM FINDINGS: On receipt of the petition, the Commission initiated covert investigation into the matter in the course of which the following facts have so far emerged:

- Incorporated documents of the company obtained from the Corporate Affairs Commission indicate the Malabu Oil and Gas Ltd was incorporated, the company had twenty million ordinary shares of N1 each distributed as follows
 - a. Mohammed Sani 10,000,000 shares
 - b. Kweku Amafagha 6,000,000 shares
 - c. Hassan Hindu 4,000,000 shares

The Memoranda and Articles of Association were fully subscribed at incorporation by Mohammed Sani (son of former Head of State; General Sani Abacha) while the other two directors were surrogated by Hassan Hindu; wife of Hasan Lawal Adamu (Wakilin Adamawa), former high Commissioner of the United Kingdom and Kweku Amafegha on behalf of Dan Etete aka Dauzia Etete the then Minister of

Petroleum Resources. Mohammed Sani Abacha however now claims that the said Mohammed Sani was himself. He did not however explain why his surname was omitted from the Memorandum and Articles of Association.

- Analysis and comparison of the obtained incorporation documents from the Corporate Affairs Commission and those submitted by the petitioners show a suspicious variance strongly indicative of forgery of the documents submitted to the Corporate Affairs Commission.
- A subsequent search conducted by Rickey Tarfa & Co dated 31/08/2007 as well as an undated search conducted by Wali, Uwais & Co revealed that:
 - a. The corporate status, shareholding structure and the names of directors were changed and filed by one Rasky Gbinigie. Thus Mohammed Sani was changed to Alhaji Mohammed, Ahmed Sanni with four million shares in contrast to the original ten million shares
 - b. Following this, Alhaji Mohammed Sani Ahmed, Kweku Amafeha, Hassan Hindu and Aliyu Mohammed Jabu were appointed directors of the company and the latter also appointed Managing Director. There was no evidence however indicating that Mohammed Sanni and Hassan Hindu had resigned their appointments or transferred their appointments or shares.
- Further changes and filing of appointments of new directors and allotment of shares were done by the said company secretary arising from purported board meetings which successfully ousted the complainants from the company despite the absence of their written relinquishments of appointments as directors or of their shares in the company
- On 24/05/2011, following the sale of OPL 245 to Shell/Agip and the consequent compensation to Malabu Oil & Gas, the sum of USD 1.092 billion was paid into an Escrow account No. 41454193 domiciled in JPMorgan Chase Co. London
- That the sum of USD 401,540,000 was subsequently released from JP Morgan and transferred into Malabu Oil & Gas account in First Bank Nigeria Plc while the sum of USD 400,000,000 was transferred into the company's account in Bank PHB Plc (now Keystone Bank Plc)

CONCLUSION:

From the ongoing, it is evident that the matter before the Commission which it is currently investigating is the alleged conspiracy, forgery, uttering of forged documents and fraud by the above stated suspects to the detriment of the complainants. While this has led us to the disbursement of funds arising from the sale of OPL 245 and the consequent compensation of Malabu Oil and Gas Ltd being the premier owners, we are currently not in possession of facts relating to the circumstances surrounding the sale of OPL 245 to authoritatively speak on the matter presently.

Our investigation into the case is not yet concluded and any Position Paper from the Commission at this stage would be prejudicial to our ongoing investigation.

PUBLIC HEARING

DAY ONE

The two-day Public Hearing on the transaction involving the Federal Government of Nigeria and Shell/Agip Companies and Malabu Oil and Gas Ltd scheduled to take place between Thursday-Dec 2013 was attended by many stakeholders and members of the public.

The Public Hearing commenced with prayers and was formally declared opened by the Deputy Speaker of the House of Representatives, Rt. Hon Emeka Ihedioha, after opening remark by the chairman of the Committee and Deputy House Leader, Rt. Hon Leo Okuweh Ogor.

The Chairman in his remarks welcomed members to the opening session of the investigative/public hearing. He stated that the resolve of the Committee to carry out the investigation as mandated derives from the inherent powers of the house, vested on the National Assembly by Sections 62, 88 and 89 of the 1999 Constitution of the Federal Republic of Nigeria, as amended and the affirmed position of the 7th Assembly to ensure probity, transparency and accountability by officials Ministries, Department and Agencies of government. According to him, the House of Representatives was prepared to give vent to all legislations that are capable of enhancing the performance of government agencies and officials, for the benefit of Nigerians. He maintained that the Committee was not out to witch hunt anybody but was ready to give all stakeholders fair hearing and equal opportunity to present their positions.

The Deputy Speaker declaring the Public Hearing open, said the House resolve to constantly carryout investigative public hearings on matters crucial to the social and economic development of the nation is informed by the concern for the ordinary Nigerians, who bear the brunt of the advertent and inadvertent consequences of government policies, wrongly implemented by officials placed in position of authority. He charged the Committee in its onerous assignment to be guided by the principles of the 7th Assembly and more importantly, by provisions of Sections 44, 62, 88and 89 of the 1999 Constitution, as amended and also by Provisions of Petroleum Act, especially, the deep water allocation to companies Act {Back-in-Right} Regulations 2003, Deep offshore and Inland Basin Production sharing Contract Act.

With the opening session over, the chairman of the Ad-Hoc Committee, Rt. Hon. Leo' Okuweh Ogor then called for presentations.

1. MINISTRY OF PETROLEUM RESOURCES

Hon Minister of Petroleum regretted her inability to have submitted the memoranda earlier to the Adhoc Committee as directed and sought for another time to enable her come up with a memoranda and a presentation to address the issues of oil block allocation, especially as it relates to OPL 245.

2. MINISTRY OF FINANCE

The Ministry duely represented by the Hon Minister of state. The Minister said the invitation went to the permanent Secretary and as a result, the Ministry did not come prepared to make any presentation yet but would do so as soon as possible.

3. MINISTRY OF JUSTICE AND ATTORNEY GENERAL

The Honourable Attorney General of the Federation, Mr Adokie, kindly requested for a postponement of the Hearing to enable him prepare for the Bakassi Judgement at the international court.

4. OFFICE OF THE ACCOUNTANT GENERAL OF THE FEDERATION

It requested for the postponement to enable the office to come up with a comprehensive position paper and presentation at a later date.

The Apparent lacklustre attitude on the part of these important stakeholders in the transaction of the OPL 245 under investigation,

infuriated members of the Committee who frowned at the levity with which they treat the communications from the Honourable House. After due consultation with his members, the chairman of the Committee ruled that since major players, including the Minister of Petroleum resources, The Minister of Finance, the Accountant-General and the Attorney-General of the Federation were not ready with their documents and therefore, could not make presentations, the public hearing be postponed to enable them make their submissions of documents to the Committee, while a new date for the hearing will be communicated to them.

Accordingly, the Public Hearing slated for 6th-7th of December 2012 resumed on the 6th of December 2012.

6th December, 2012.

In his resumption remarks, the chairman of the Committee and Deputy House Leader, stated that nobody was on trial, as all, the Committee was mandated to do was to investigate the illegal sale of OPL 245, and to determine how the national interest was accommodated in the transaction. He then proceeded to call on stakeholders to make their presentations.

1. ATTORNEY GENERAL OF THE FEDERATION

After taking the statutory oath, the Honourable Attorney General of the Federation re-iterated steps taken on behalf of the Federal Government of Nigeria and Ministry of Petroleum Resources to resolve the disputes over OPL 245. He recalled that in furtherance of the Indigenous Exploration Programme Policy introduced by the Federal government in the Early 1990's to encourage effective development of Indigenous capability in the upstream sector of the oil industry, Malabu oil and Gas Ltd and other indigenous oil and gas companies were allocated oil blocs which they are to develop in partnerships with international oil companies as Technical partners.

Malabu Oil & Gas Ltd was allocated OPL 245 in April 1998 and in accordance with the Terms of the Grant; it appointed Shell Ultra Deep Limited {Shell} as its technical partner. The two companies executed relevant agreements including a joint operation agreement in 2001.

SNUD took 40% participating interests in the Venture in a farm-in-agreement and also signed agreement with Malabu as its technical partner for the Venture.

However, Malabu license for Bloc 245 was subsequently revoked by the Federal government on 2nd July, 2001. Exxon-Mobil and SNUD were invited in April 2002 to bid for OPL 245 despite subsisting contractual agreements between Malabu and SNUD with respect to OPL 245. Malabu contended that the revocation of its license on Bloc 245 was less than transparent and smacked of inducement and connivance from SNUD its technical partner. Malabu contended also that the subsequent re-award of OPL 245 to SNUD by the Federal Government was done under questionable circumstances. He stated that, it also smacks of sharp business practises on the part of SNUD to bid for a Block for which it had subsisting technical agreement with another company. And cognisance must also be taken of government underlying policy decision of encouraging the participation of indigenous oil and gas companies in the Upstream Sector of the oil industry. A policy that was not designed to encourage international oil companies who are already major players in the industry to take over concessions granted to indigenous companies who are small/minor players in the industry at the moment.

During the pendency of an appeal filed by Malabu, an amicable settlement was entered into between Malabu and the Federal government. And in compliance with the terms of settlement executed by the parties on the 30th of November 2006, OPL 245 was fully and completely restored to Malabu in consideration for its withdrawal of the appeal. SNUD however contented the terms of settlement between the Federal government and Malabu at the international centre for the settlement of investment disputes.

Several meetings were held between the Presidency, Ministry of Petroleum Resources, SNUD and Malabu to resolve the dispute, no satisfactory outcome was achieved.

In 2012, according to the HAGF (The President Jonathan Administration) when this administration came to office, Malabu Petitioned the Federal

Government to implement the terms of the out of court settlement of 30th November 2006 on the basis of which they had discontinued their appeal. Government also took cognisance of the pending cases instituted by SNUD against FGN, including Bilateral Investment Treaty {BIT} pending at the International Centre for the settlement of investment disputes.

To resolve all the contending claims, in a satisfactory and holistic manner due regard was given to the terms of settlement of 30th November 2006 already reduced to orders of the Court. The underlying policy of encouraging the participation of indigenous oil and gas companies in the upstream sector of the oil industry and the fact that Shell had substantially de-risked Block 245, a resolution Agreement dated 29th April 2011 was executed wherein the FGN agreed to resolve all the issues with Malabu in respect of Bloc 245 amicably and Malabu agreed that it would settle and waive any and all claims to any interest in OPL 245

In furtherance of the Resolution Agreement, SNUD and ENI agreed to pay Malabu through the FGN acting as an obligor, the sum of \$1,092,000,000.00 in full and final settlement of any and all claims, interests or rights relating to or in connection with Bloc 245 and Malabu agreed to settle and waive any and all claims interest or rights relating to or in connection with block 245 and also consented to the re-allocation of Bloc 245 to Nigerian Agip Exploration Limited {NAE} and Shell Nigeria Exploration and production Company Limited {SNEPCO} . He concluded.

At all times material to the resolution of the dispute the Federal Government was not aware of any subsisting third party interest in Malabu's claim to OPL 245 and neither did any person or company apply to be joined in the negotiation as an interested party.

When asked by the Committee on what basis was the resolution Agreement accommodating Malabu, Shell/FGN Executed, he said, all the Agreements were executed in April 2011 to formally bring all the issues and disputes concerning all parties as regards OPL 245 to rest. That the re-allocation of Block 245 to Malabu was on the consideration of Malabu discharging and releasing the FGN from all claims and suits filed by

Malabu against the FGN in connection with the revocation of Malabu interest on 2nd July 2001. Also the numbers of dispute resolution proceedings initiated by SNUD against the FGN including the Bilateral Investment Treaty arbitration to enforce SNUD's rights to exclusively operate Block 245 as contractor on the basis of the 2003 PSC between NNPC and SNUD .

When further asked, the rationale behind Shell's accommodation in any resolution benefits inspite of its arbitrary contravention of its subsisting farm-in-agreement with Malabu over OPL 245.

He agreed, it smacks of sharp business practices on the part of SNUD to bid for a block for which it had a subsisting technical agreement with another company.

2. THE MINISTER OF PETROLEUM RESOURCES

The Ministry of Petroleum Resources duly represented by the Honourable Minister for Petroleum Resources duly sworn on oath, confirmed that the Ministry by a letter dated 29th April, 1998 allocated two oil prospecting licenses OPL 214 and 245 to Malabu Oil & Gas Limited, on the 29th April 1998.

However it was not until 25th May, 1999 that Malabu delivered three bank drafts in the Name of PTDF to the Department of Petroleum Resources (DPR) in the total sum of \$2,050,000 Consisting part payment of signature bonus and processing fee in the sum of \$10,000. The sum of N50, 000 representing the application fee was also paid by Malabu on 3rd June 1999.

That though an indigenous policy programme acreage by a virtue of a condition attached to the allocation. Shell Nigeria Ultra Deep Limited (SNUD) by a farm-in-Agreement and Deed of Assignment dated 30th March,2001 farmed into OPL 245 and acquired a 40% participating interest in the said OPL 245 and consideration for paying the balance of the signature bonus due on the said Block. SNUD caused a bank draft in the sum of USD17, 960, 000 being the balance of the bonus to be delivered to DPR. However the bank draft was not realised. Efforts were made by the parties to represent the draft for payment.

Whilst the efforts were on going, The Special Assistant to the President on Petroleum conveyed to DPR on 2nd July 2001, the decision of the Federal Government to revoke the allocation of the OPL245 to Malabu. Consequently the allocation of OPL 245 was revoked and withdrawn via a letter dated 2nd July 2001.

The Government subsequently invited Exxon Mobil, Chevron and SNUD to bid for the re-award of OPL 245. SNUD won the bid for the re-award of OPL 245. SNUD won the bid by bidding to pay a Signature Bonus of USD210, 000, 000. SNUD was awarded the Block on a production sharing basis by a letter dated 23rd May, 2002.

Malabu contended that the award of the Block to SNUD smacked of Lack of integrity on the part of SNUD. Malabu initiated an action in a suit against the Federal Government seeking interlia a declaration that the revocation is illegal and a re-instatement of its interest. In addition to the Legal proceedings Malabu petitioned the House of Representatives which directed the FGN to reverse the award of the Block to SNUD and return it to Malabu. The House deprecated the conduct of SNUD in bidding for the same block in respect of which it had a valid farm-in-Agreement with Malabu and found that there was complicity on the part of SNUD.

Subsequently, an amicable resolution of the litigation was reached between Malabu and the Federal Government of Nigeria by means of a settlement as contained in Terms of Settlement executed on 30th November, 2006. The Terms of Settlement included a restoration of the said oil block to Malabu. OPL 245 was thus restored to Malabu. Pursuant to the said Terms of Settlement, Malabu caused its appeal lodged against the striking out of its case by the Federal High Court to be withdrawn on the basis of a Notice of Discontinuance of the said appeal dated 16th January, 2007.

In furtherance of the Settlement between the Federal Government of Nigeria and Malabu, the Federal Government of the Nigeria re-awarded OPL 245 to Malabu vide letter dated December, 2006 with a new signature bonus of \$210,000,000 to be paid by SNUD less the sum of \$2,040,000 already paid by Malabu.

It is important to note that the Settlement Agreement aforesaid between Malabu and the Federal Government received the approval of Chief Olusegun Obasanjo GCFR, the President of the Federal Republic of Nigeria at the time. In a letter dated 2nd December, 2006 addressed to Malabu Oil and Gas Limited by Dr Edmund Daukoru, the then Minister of State for Petroleum resources, stated as follows:

“ We refer to the above subject matter and are delighted to convey to you that the President of the Federal Republic of Nigeria and Commander in Chief of the Armed Forces having concluded a review of your legal claims for the return of oil block 245 (OPL 245) has graciously approved and directed as follows:

That the Federal Government of Nigeria is amenable to an out of court settlement of the claims comprised in the legal proceedings commenced by Malabu Oil and Gas Ltd and consequently has agreed to settle your legal claims for the return of the oil block constituted as OPL 245. The said oil block 245 (OPL 245) shall from the date hereof and with immediate effect be returned to Malabu Oil and Gas Ltd with full and total reinstatement of all its rights thereto.

Any and all previous decisions inconsistent with or purporting to deprive Malabu Oil and Gas Ltd of its rights over the totality of the concessions in the said OPL 245 shall stand absolutely and totally rescinded as if they had never been made.

Malabu shall immediately upon receipt of this letter forthwith withdraw, discontinue and or cause to cease any , all every legal proceedings concerning OPL 245 initiated and/or being maintained by Malabu against the Federal Government of Nigeria in respect of the Oil Block OPL 245.

The position of the Federal Government of Nigeria was conveyed to SNUD by the Minister of State for Petroleum Resources at the time via letter dated 1st December, 2006

“Following a review of expert legal opinions on respondents’ prospects in the legal appeal by Malabu Oil and Gas, Government has decided that

the best option against exposure to substantial damage is an out of court settlement.

That Shell is to forgo block 245 to Malabu while Government provides a mutually acceptable substitute of comparable potential against the \$210 million, which Shell has already paid or will be expected to pay as signature bonus."

The Attorney General of the Federation and Minister for Justice, Chief Bayo Ojo SAN, wrote to the Minister of State for Energy informing him that SNUD had persisted in its claim to the ownership of OPL 245 in spite of the Settlement Agreement between the Federal Government and Malabu. In response, Dr. Edmund Daukoru, the Hon. Minister for energy at the time wrote to SNUD on 11th April, 2007 as follows:

- *The Government of Nigeria and this Ministry have made no suggestion directly against the restoration of the license of OPL 245 to Malabu as an agreed settlement of a dispute between Malabu and the Government of Nigeria.*
- *This Ministry and the Government of Nigeria find it difficult to believe that Shell would have stated otherwise but, in order to prevent confusion, any such statement is untrue and if it has been made, the Ministry seeks an explanation from Shell. It is more puzzling since Shell have told me that they will not interfere in the exercise by Malabu of its restored rights in and over OPL 245.*
- *I trust that the court order of 24th January, 2007 will be respected by all parties and that the position of the Government of Nigeria is clear in restoring without confusion OPL 245 to Malabu Oil & Gas Limited"*

SNUD however, brought proceedings against the Federal Government of Nigeria before the International Centre for the settlement of Investment Disputes (ICSID) in Washington DC

The Federal Government of Nigeria, under the new leadership of President Umaru Musa Yar' Adua, NNPC, Malabu and SNUD had a negotiation meeting in January 2008, which culminated in a Draft Settlement Agreement (Exhibit M17) redefining the participating equity interest of each party to the block. It was contemplated that the draft

settlement would have been executed by 28th February, 2009. The settlement agreement was however not eventually executed by the parties.

Advice from the Ministry of Justice confirmed that Settlement Agreement dated 30th November, 2006 between Malabu and the federal Government of Nigeria was valid and subsisting.

Accordingly, the Honourable Minister of Petroleum resources by letter dated 2nd July, 2010, allocated OPL 245 to Malabu Oil and Gas Limited subject to payment of signature bonus in the sum of \$210,000,000 less the sum of US\$2,040,000 already paid by Malabu in respect of the said oil block within ninety days from the date of the letter of award.

In order to achieve a comprehensive resolution of all outstanding matters, the Honourable Attorney General of the Federation and the parties met and produced a draft OPL 245 Resolution Agreement which was forwarded to the Minister for Petroleum and NNPC for comments. By a letter dated 28th January, 2011, the legal adviser of NNPC and secretary to the Corporation, Professor Yinka Omorogbe made comments to the Resolution Agreement indicating the areas in respect of which, in her opinion, the said agreement was adverse to the interest of NNPC and the Federal Government

The Resolution Agreement was then executed on 29th April, 2011, wherein Malabu agreed to relinquish all its claims to OPL 245 in consideration for a payment of compensation to it by SNUD and Nigerian Agip Energy (NAE) in the sum of \$1,092,040,000 through the Federal Government. Malabu then consented to a reallocation of the said OPL 245 to SNEPCO and NAE.

She noted, the Government of the Federal Republic of Nigeria was already bound by the terms of the Settlement Agreement of 30th November, 2006, the entry into which was approved by President Olusegun Obasanjo and the terms of which were in line with the resolution of the House of Representatives that OPL 245 be restored to Malabu.

All that has been done by the Ministry of Petroleum Resources is to give effect to that Settlement Agreement which had been confirmed as binding on the Federal Government of Nigeria as a consent judgement. Secondly,

the said advice she needed was in line with a resolution of the House of Representatives on the issue.

3. DEPARTMENT OF PETROLEUM RESOURCES

The director revealed;

a. Malabu Oil and Gas Ltd was awarded OPL 245 a deep water offshore block on a sole risk basis vide letter PI/BAL/3717/S.399/Vol. 1/3 dated April 29, 1998 under the Indigenous Exploration Programme Policy.

b. The award was subject to the fulfilments of prescribed conditions among which were payments of the following statutory fees within 30days of the award:

i. Fifty Thousand Naira (50,000.00) application fee

ii. Ten thousand US Dollars (\$10,000.00) bid processing fee

iii. Twenty Million US Dollars (\$20,000,000.00) signature bonus

c. On 28th May, 1999, Malabu paid \$10,000.00 and \$2,040,000.00 as bid processing fee and part payment of the signature bonus respectively, while N50,000.00 being the application fee was paid on the 3rd of June 1999

d. Contrary to the terms in b(iii) above, on 9th April 2001 a cheque dated 6th April, 2001 for the sum of \$17,960,000.00 being the balance of the signature bonus issued by Shell Nigeria Ultra Deep SNUD (Malabu's approved technical partner) in favour of FGN (PTDF A/C) was returned by Citibank New York in July 2001 uncleared, as it was marked "acceptance at Citibank Nigeria Counters only"

e. On 2nd July, 2001 the allocation of OPL 245 to Malabu was withdrawn and the title deed revoked based on the directive of the Presidential Adviser on Petroleum and Energy

f. OPL 245 was then put on offer by the Federal Government of Nigeria (FGN) and three (3) companies namely; Chevron, Exxon/Mobil and SNUD bid for the block. SNUD emerged as the highest bidder with

an offer of USD 210,000,000.00 (USD two hundred and ten million) as the Signature bonus on the block.

g. By a letter dated May 23, 2002 Shell Nigeria Ultra Deep (SNUD) limited was awarded OPL 245 by the Government subject to among others, the following conditions:

1. SNUD would be the operator of the block
2. Payment of a signature bonus of USD 210,000,000.00 (USD two hundred and ten million)
3. The block would be operated on Production Sharing Contract (PSC) basis
4. The Signature bonus should be paid within 90 days of the date of the award.

h. By a letter dated November 7, 2002, SNUD was required by DPR to pay US \$1,000,000.00 (USD One million) by Bank Draft into the PTDF Account within 90 days and the balance of USD US\$ 209,000,000.00 (USD two hundred and nine million) paid into an Escrow Account nominated by the parties (SNUD and Federal Ministry of Finance). Both payments were effected by SNUD by 23rd December, 2003

i. Subsequently, Malabu took an action in the Court of Law challenging the Federal Government of Nigeria (FGN) for revoking the block. (The case was however struck out and Malabu appealed the judgement)

j. On 30th November, 2006, the Federal Government of Nigeria and Malabu entered into an Out-of-Court agreement (the "Settlement Agreement") in final settlement of the dispute between Malabu and FGN wherein Malabu's rights to OPL 245 were fully restored as though same were never revoked. Following this development, a Notice of Discontinuance of Appeal was filed by Malabu at the Court of Appeal dated 16th day of January, 2007. He concluded by saying the department did all it did on directives received from the Ministry.

4. SHELL NIGERIA ULTRA DEEP LIMITED (SNUD)

In their presentation, Shell duly represented by their Managing Director started by insisting there was no sale of OPL 245 to any Shell company in 2011. What transpired was the settlement of long standing disputes existing between the Federal Government of Nigeria (FGN) and various parties, including SNUD, over the allocation, revocation and re-allocation of OPL 245

The facts are that, as at 2011:

- c. FGN was not in position to sell OPL 245 because, it had, at different times prior to 2011, already assigned the rights and interest in OPL 245 to both SNUD and Malabu
- d. SNUD and Malabu each had competing claims over OPL 245 for the respective rights and interests granted to them by FGN, dating back many years.

SNUD acquired its interest in OPL 245, by the award of OPL 245 to SNUD on a Production Sharing Contract basis, pursuant to a letter dated the 23 May 2002, from FGN, through the then Honourable Minister of Petroleum Resources, acting pursuant to its powers under the Petroleum Act. Pursuant to the award, SNUD entered into a production sharing contract (PSC) with Nigerian National Petroleum Corporation (NNPC), dated 22 December 2003 for a period of thirty (30) years from 22 December, 2003;

Malabu on the other hand, claimed rights to OPL 245 through a letter of award from FGN dated 29th of April 1998, for OPL 245, followed by the title deed for OPL 245, which was subsequently revoked by FGN on 2 July, 2001.

Notwithstanding the fact that SNUD was conducting operations exclusively on OPL 245 by virtue of its PSC, on the 30th November, 2006 FGN and Malabu executed a Settlement Agreement wherein FGN reallocated OPL 245 to Malabu. By this Settlement Agreement, FGN and Malabu settled the litigation filed by Malabu against FGN over the revocation by FGN of Malabu's interest in OPL 245 in 2001.

Malabu had challenged the revocation of OPL 245 by FGN in 2001 and the subsequent award of the PSC to SNUD through various legal and administrative actions in Nigeria and the USA against FGN and SNUD, both jointly and

severally. This included a petition against SNUD before this Honourable House of Representatives in 2002, which resulted in an investigative hearing that ended with a resolution by the House in favour of Malabu in 2003.

SNUD instituted legal action challenging the House of Representatives resolution in favour of Malabu through the courts up to the Court of Appeal.

SNUD also challenged the 2006 reallocation of OPL 245 to Malabu by FGN in a series of dispute resolution proceedings, including arbitration at the international Centre for the Settlement of Investigative Disputes (ICSID), claiming amongst other reliefs, damages against FGN. Hearing of the dispute took place in Paris, France, in March, 2010.

As a result of the various proceedings arising from the disputed ownership of OPL 245 including litigation in Nigeria and the ICSID arbitration proceedings, none of the parties, including the FGN, was able to conduct operations on OPL 245 or to derive any benefit therefrom.

In April, 2011, FGN and the other parties achieved settlement out of court, of the ICSID arbitrations proceedings and all other pending law suits in Nigeria between all or any of the parties of those disputes. Under the terms of this settlement, SNUD received a 50% interest in OPL 245 in place of its PSC. This interest was granted to SNEPCO, at SNUD's request. SNEPCO is the affiliate of SNUD which holds and operates interests in the deep water exploration in Nigeria, where OPL 245 is located.

By the settlement in April 2011:

- d. SNUD's interest in OPL 245, which it obtained in 2002, before its purported nullification by FGN in 2006, was restored, giving SNUD's affiliate company, SNEPCO (at SNUD's request) the ability to resume operations on OPL 245 which had been stopped by the action of the FGN since 2006, and which SNUD had resorted to both litigation and international arbitration to defend and preserve.
- e. FGN has resolved all outstanding issues and disputes relating to OPL 245 and secured a release from all competing claims on the block.
- f. SNUD, on behalf of SNEPCO and NAE, paid to FGN the sum of \$207,960,000 (Two Hundred and Seven Million, Nine Hundred and Sixty Thousand US Dollars only) as Signature Bonus, from the SNUD/FGN

Escrow account, wherein it had been placed by SNUD since December 2003.

Asked how they came about the PSC in 2003. Chike responded that they were invited to bid for the block and after due submission of relevant bid papers. On the technical agreement subsisting with Malabu Oil and Gas Ltd. he further explained, that, relationship was severed prior to the PSC bid. He however could not produce any proof of such termination notice and acknowledgement. On the equity partnership with Nigerian Agip Exploration Company who was never part of the dispute. It is common practise for oil companies to enter into farm-in arrangements he said. Asked to comment on the Indigenous Policy Programme content of OPL 245 subsisting as at the time of entering the PSC, he retorted the question be directed to the Federal Government.

The Chairman of the Committee debunked his claim that there was no sale of any interest regarding OPL 245 to any Shell Companies in 2011. He drew his attention to a clause 1.1 of the Resolution Agreement, that expressly stated that SNEPCO shall reimburse SNUD expenditures to the tune of Three Hundred and Fifty Million United States Dollars (\$350,000,000) incurred by SNUD on the Bloc. Chike however could not give convincing clarifications.

5. THE ACCOUNTANT GENERAL OF THE FEDERATION

The Accountant General of the Federation informed the Committee that Nigeria Agip Exploration NAE and SNEPCO and FGN opened an Escrow account into which money was to be paid for the purposes of FGN facilitating the settlement of all and any existing claims and/or issues over Block 245. The details of the account were given as below:

Account Name: NAE/SNEPCO ESCROW

Account Number: 0041429879

Account Type: Demand Deposit Account

Date: 3rd May, 2011

NAE on behalf of NAE and SNEPCO wire transferred the sum of USD 1,092,040,000.00 into the NAE/SNEPCO Escrow account with Number 0041429879 on the same day the total sum of USD 1,092,040,000.00 was moved from this account to the Federal Republic of Nigeria Escrow account Number 0041451493. The monies due to Malabu were to be paid from the account at JP Morgan. The total amount due was USD 1,300,000,000.00. The signature bonus to FGN of USD 207,960,000 was deducted to arrive at Net balance due to Malabu to be \$ 1,092,040,000.

Following the cognisance of an ex-parte order issued by the high court of justice, Queens Bench Division England in respect of a suit between Energy Ventures Partners Ltd and Malabu Oil and Gas Limited. A sum of USD 215,000,000 was to be paid to the account of the court funds office of England and Wales. While the sum of \$801,540,000.00 paid directly to Malabu. The remaining balance was to be maintained in an interest yielding Account pending further instruction. Supportive documents were attached in view of all decisions taken.

On the 23rd August 2011, JP Morgan transferred the sums of \$400,000,000 and \$401,540,000 from the FGN Escrow Account to the relevant Malabu Oil and Gas Accounts as instructed.

6. HONOURABLE MINISTER OF FINANCE

The Permanent Secretary representing the Minister, informed the Committee that the Ministry's clarifications is sequel to an out of court settlement between the FGN and the various parties connected to and or involved in the allocation, revocation and re-allocation of Bloc 245. It recalled the Attorney General earlier memo to the President dated May 28, 2010 requesting the President's approval for enforcement of the settlement agreement in respect of OPL 245 by Malabu Oil and Gas Ltd. The President duly approved and directed the Ministry of Petroleum resources to;

- f. Implement and give full effect to the terms of settlement agreement dated 30th November, 2006 between Malabu Oil and Gas Limited and the FGN as they valid and subsisting
- g. Call upon Malabu to pay signature of 210 million US Dollars on OPL 245, less the sum of \$2,040,000 million US Dollars already paid by it in respect of the same Block

- h. Enable or allow Malabu to exercise all rights incidental to and consequent upon the return of Oil Block OPL 245 to it as concessionaire/operator/contractor of the Block and be free to assign or deal in anyway, in whole or in part with any third party as technical partners or advisers or co-contractors in respect of any of the rights to OPL 245
- i. Ensure that Malabu and any of its co-investor or technical partners comply with all the provisions of the Petroleum Act and other applicable legislation/regulations as it effects OPL 245
- j. Ensure that all agencies and departments of government, Shell Nigeria Ultra-Deep Limited (SNUD) or any company acting for it refrains from any further interference with Malabu's ownership and operations of OPL 245

To finally resolve all the contending issues and claims against the FGN, all the parties agreed to execute a Reallocation Agreement to re-allocate Bloc 245 to SNUD. The said Agreement witnessed the confirmation of the full and final resolution with Malabu and SNUD, of all Malabu's and SNUD's respective claims and issues in dispute over Block 245 and a mutual reciprocal release from all claims, under the Resolution Agreement, by all the parties. The said agreement was duly signed on 29th April, 2011.

On 3rd May, 2011, NAE on behalf of NAE and SNEPCO and FGN opened an escrow account into which money was to be paid for the purpose of FGN facilitating the settlement of all and existing claims on OPL 245. The details of account are as follows:

Account Name: NAE/SNEPCO ESCROW

Account Number: 0041429879

Account Type: DEMAND DEPOSIT ACCOUNT

On 18th May, 2011, the FGN opened an escrow account with JP Morgan Chase through which the facilitator of all payments in respect of OPL 245 to all parties to the settlement was to be made. The details of the escrow account are as follows:

Account Name: Federal Republic of Nigeria Escrow

Account Number: 0041451493

Account Type: Demand Deposit Account

- The total amount due was US\$1,300,000,000
- The Signature Bonus-FGN of US\$207,960,000 was deducted to arrive at net balance due to Malabu to be US\$1,092,040,000
- On 24th May, 2011, NAE on behalf of NAE and SNEPCO wire transferred the sum of US\$1,092,040,000 into the NAE/SNEPCO Escrow with number 0041429879
- On the same day, 24th May, 2011, the total sum of US\$1,092,040,000 was transferred to the FGN Escrow Account with number 0041451493
- On the 25th May, 2011, in accordance with the Resolution Agreement, the money due for Malabu was directed to be paid from paid from the FGN escrow account with JP Morgan Chase to the account of Messrs Petrol Services Co. Limited at Banque Misr Liba Sal, Riad El Solh Street, Account Number: 00200200004380 and from there to Malabu's Account
- Messrs Petrol Service Co. Ltd declined to accept the said payments for onward transfer to Malabu
- On 15th June, 2011, Malabu wrote to the Honourable Minister of state, Finance that they have been unable to access the funds through their bankers in Lebanon and therefore requested that the funds should now be transferred to their accounts with the details below;
 - First Bank of Nigeria Plc., Aminu Kano Crescent, Wuse-Abuja
Account Number: 2018288005
 - Keystone Bank Limited, Abiola House, Central Business District
Account Number: 3610042472
- In cognizance of the ex-parte order issued by the High Court of Justice, Queens bench Division, Commercial Court, England dated 3rd July, 2011 in respect of a suit between Energy Ventures Partners Ltd v. Malabu Oil & Gas Ltd, it was agreed that:
 - The amount to be transferred to Malabu is US\$801,540,000
 - The sum of US\$215,000,000 is to be paid to the account of the Court Funds Office of England and Wales
 - The remaining balance was to be maintained in an interest yielding account pending further instruction
- The sum of US\$207,960,000 was paid as signature bonus to the FGN
- On 23rd August, 2011, JP Morgan transferred the sums of US\$400,000,000 and US\$401,540,000 from the FGN Escrow account to

the relevant Malabu accounts at First Bank of Nigeria PLC (Account No. 2018288005) and Keystone Bank Limited (Account No. 3610042472)

Following the endorsement of the agreement by the Honourable Attorney General, the permanent secretary finance duly invited Mr President to kindly consider and approve the release of the sum of US\$1,092,040,000 directly to the Account of Malabu Oil and Gas Ltd and subsequently approved on 6th July, 2011.

7TH DECEMBER, 2012

1. NIGERIAN AGIP EXPLORATION LIMITED

The representative of Nigeria Agip Exploration stated on oath that NAE has knowledge of OPL 245 and also interested in the oil bloc but could not do anything about the interest because of the dispute surrounding the Bloc. It is in order to effectively secure its interest in OPL 245, it offered to settle the dispute between Malabu Oil and Gas Limited, SNUD and NNPC and paid USD1,0902,040,000.

The company resolved the dispute so as to get the allocation of OPL 245 and that truly after the signing of the resolution agreement, NAE and SNEPCO were allocated OPL245 bloc and thus signed a Production Sharing Agreement wherein NAE got 50% of the bloc and SNEPCO also allotted 50%. That NAE was aware of the indigenous policy that guarded the OPL 245 Bloc.

2. CENTRAL BANK OF NIGERIA

Olu Adaramewa, representing the CBN said the bank got to know about the transaction on the 9th May 2012 when a credit of USD 207, 960,000.000 was noticed in the CBN/FGN independent Revenue Account No. 4000939134 it maintains with JP Morgan Chase. It subsequently wrote to the Accountant General of the Federation on 13th May, 2011 to inform him of the lodgement by Shell/Agip and requested to know its purpose.

The OAGF responded vide a letter dated 15th June, 2011 acknowledged the lodgement and informed the bank that it was in respect of Signature

Bonus on OPL 245. The letter further instructed the lodgement be transferred from the CBN/FGN independent Revenue Account to the CBN/FGN Accountant General Account No. 400225220, as the former was not the account meant for the lodgement.

Adaramewa added that in line with bank procedure, it sought the Federal Ministry of Finance's authentication of the instruction of the OAGF in respect of the transfer of the lodgement. The permanent Secretary, FMF vide letter Ref: F.17006/111/130, dated 23rd June 2011 authenticated the transaction.

Consequent upon the receipt of the letter from the Federal Ministry of Finance authenticating the OAGF instruction; on 29th June, 2011 the transfer of USD 207, 960,000 was effected from the CBN/FGN Independent Revenue Account to the CBN/FGN Accountant General Account. Both Accounts maintained with JP Morgan Chase Bank, NA, USA.

Concluding, the CBN invited the Committee to note that the USD207, 960, 000,000 lodgements in CBN/FGN Independent Revenue Account was for the purpose of signature Bonus on Oil Block 245;

ii. The transfer of the Fund from CBN/FGN independent revenue Account to CBN/FGN Accountant General Account was duly authorised by the OAGF and authenticated by the Federal Ministry of Finance

iii. CBN only acted in accordance with the mandate received from the OAGF as authenticated by the Federal Ministry of Finance.

3. FIRS

On the detailed position on the transaction, it indicated the necessary procedure to be followed in such transaction, tax payments or guidelines for such transaction. On the necessary procedures; it said information made available to the Federal Inland Revenue Service, Shell Ultra Deep Ltd indicated what took place was a reallocation and re-issuance of the OPL 245 to Shell/Agip based on a settlement Agreement between the companies and the FGN. FIRS further submitted that where government

allocates oil prospecting license under section 2 and the first schedule of the Petroleum Act, consequently applicable taxes (Value Added Tax or Capital Gains Tax is not required. It went on to explain that the tax types, which are applicable to a transfer of interest in an OPL are value added Tax and Capital Gains Tax. Capital Gains Tax, it explained may be applicable to the transfer or sale of an interest in an OPL, as an interest in an OPL which is deemed to be an intangible asset is subject to tax under Section 3(a) of the Capital Tax Act. In the case under consideration however, since no sale or transfer occurred, there is no obligation to pay Capital gains Tax.

On Malabu Oil and Gas Limited, it said they are in the process of reviewing the Company's records in the FIRS to ensure that it is in Compliance with its obligations under the relevant tax laws and has discharged any tax obligations, whether in relation to this particular transact or its normal business operations it concluded.

4. CORPORATE AFFAIRS COMMISSION:

The presentation of the Corporate Affairs Commission was made by the Deputy Director and head of Records Keeping unit of the Commission who apologised for the absence of the Registrar-General of the Commission that was on official assignment. Also in attendance with her was an Assistant Director in charge of compliance.

In her presentation, she said Malabu Oil and Gas Limited was registered as a limited liability company by the commission on the 24th of April, 1998, with certificate number 334442 with a share capital of twenty million naira (N20million). At registration, the directors of the company were Mohammed Sani with a shareholding of ten million (50%), Amafeha Kweku with shareholding of Six million (30%) and Hassan Hindu, also with a shareholding of four million (20%). However, the original incorporation documents of the company and some of the filings immediately thereafter got missing in the Commission around 1999/2000 and all efforts to trace same proved abortive. The commission had to open a temporary file for the purpose of processing subsequent filings in respect of the company.

In May, 2000, a new form 2.3 (particulars of directors) was filed with the following details: Munamuna Seidougha and Fasawe Oyewole. The

supporting resolution claimed to have removed one Alhaji Aliyu Mohammed Jabu as director and a member of the company. The commission did not however have any record of his appointment since the file was filed with the following details: Munamuna Seidougha and Fasawe Oyewole. The supporting resolution claimed to have removed one Alhaji Aliyu Mohammed Jabu as director and a member of the company. The commission did not however have any record of his appointment since the file was missing. By another resolution dated 6th March, 2000, the shares of the company were redistributed as follows: Munamuna Seidougha-10,000,000 and Pecos Energy Limited- 10,000,000.

By 2007, the commission was informed by the Economic and Financial Crimes Commission (EFCC) that the affairs of the company were being investigated. Furthermore, in November, 2008, the Commission also received a petition from Alhaji Mohammed Sani Ahmed, alleging that he was an original director and subscriber of the company with 50% shareholding stressing that the changes made in the directors and shareholdings of the company were unauthorized.

The Deputy Director stated that on receipt of a letter from the Economic and Financial Crimes Commission (EFCC) by Alh. Mohammed Sani in 2008, the file of Malabu Oil and Gas Limited was at once placed on Restriction.

When asked by the Committee to make clarification on the purported forged board resolution of Malabu Oil and Gas Limited at the Corporate Affairs Commission, filed by one Mr Rasky Gbinigie on 18th Dec 2006, the Deputy Director said she was not in charge of the record keeping unit of the commission as at then but maintained that by 2007 and 2008 the file of the Malabu Oil and Gas Limited had been placed on restriction.

5. MALABU OIL AND GAS LIMITED:

In his presentation, Mr Dele Adesina (SAN) representing Malabu Oil and Gas Ltd, stated that Malabu Oil and Gas Limited is an indigenous company duly registered with the corporate Affairs Commission on 24th April, 1998 in response to the Clarion call by the then Federal Government to indigenous Companies to participate in the upstream sector of the Petroleum Industry under its indigenous policy meant to encourage indigenous companies in Nigeria.

Accordingly, in consonance with the guidelines stipulated by the Department of Petroleum Resources (DPR) and the Petroleum Act, Malabu Oil and Gas Limited applied for an oil bloc and was awarded OPL 245 on a sole risk basis by a letter dated 29th April, 1998. As soon as the company got the award, it complied with the terms and conditions of the allocation and made part payment of the signature bonus of two million and forty thousand US Dollars (\$2,040,000), paid Ten Thousand US Dollars (\$10,000) as bidding fee and also paid application fee of Fifty thousand Naira (N50,000). It also carried out a 2D seismic survey of the OPL 245 in further compliance with the terms and conditions of the award.

Having met with the terms and conditions of the allocation of the bloc OPL 245, definite steps were taken by Malabu Oil and Gas Limited to develop the bloc, culminating in the discussions and agreements between Shell Nigeria Ultra Deep Limited (SNUD) to hold forty percent (40%) participating interest in OPL 245. After due diligence search on Malabu Oil & Gas Limited by Shell Nigeria Ultra Deep Ltd to confirm the validity and ownership of OPL 245, both companies, that is, Malabu and SNUD entered into heads of agreement on the 29th December, 2001 creating a basis for their relationship with Malabu assigning forty percent (40%) participating interest in OPL 245 to Shell Nigeria Ultra Deep Ltd and appointing SNUD as its technical partner. Based on the heads of agreement, Shell Nigeria Ultra Deep (SNUD) was mandated to pay to the Federal Government of Nigeria, the signature bonus balance of USD 17,960,000 and to refund to Malabu Oil & Gas Limited, the sum of USD 2,040,000 already paid to the Federal Government.

However, while SNUD was still in partnership with Malabu Oil and Gas Limited, SNUD went to offer the sum of USD 210,000,000 (two hundred and ten million Dollars) signature Bonus to the government without the knowledge of Malabu Oil and Gas Limited. On the 30th March, 2001, other relevant Agreements were further executed between the two companies, namely; Farm-in Agreement, Deed of Assignment, Joint Operating Agreement and a supplemental to the Farm-in Agreement.

Malabu Oil & Gas limited and Shell Nigeria Ultra Deep Ltd went further to inform and seek the consent of the Federal government on the execution of the various agreements by a letter dated 6th April, 2011. The Signature Bonus payment cheque issued by SNUD to the Federal Government was declared unacceptable and this made Mr John Koop of SNUD undertook writing another letter to DPR and its bankers deleting the condition placed on the payment. Unknown to Malabu Oil and Gas Limited, SNUD did not comply with the undertaking but rather, the award of OPL 245 to Malabu Oil and Gas Limited was purportedly revoked and re-awarded to SNUD.

He stated further that attitude of SNUD necessitated contesting the latter award in court leading to institution of cases and appeals by Malabu Oil and Gas Limited. This conflict was later settled out of court in favour of Malabu Oil and Gas Limited and the relevant settlement agreement which amongst others affirmed the reversion to Malabu Oil and Gas Limited, its 100% sole-risk concession ownership of the OPL 245 through the settlement agreement dated 30th November, 2006.

The terms of the out-of-court settlement between the Federal Government and Malabu Oil and Gas limited fully restored the company's right to OPL 245 with the condition that Malabu Oil and Gas Limited pays USD \$210 Million as the signature Bonus the exact amount SNUD was to pay to Federal Government as against the original signature bonus of USD 20m payable by Malabu Oil & Gas Limited. Furthermore, there was an undertaking by the Federal Government through the Minister of Energy wrote to SNUD in confirmation of the restoration of Malabu's 100% concession of OPL 245 and at the same time offering SNUD another bloc in replacement

As a reaction to the above, SNUD sued the Federal Government and Malabu Oil and Gas Limited to court at the Federal High Court, Abuja, challenging the alteration of its contractors status in OPL 245 by the Federal Government and solicited for the preservation of the terms of the production sharing contract (PSC) entered with NNPC on 22nd November, 2003.

percentage that has continued to generate income for the owners on daily basis. It is the contention of Malabu that OPL 245 ranks better in terms of deposit than OPL 246. The persistent refusal by Shell to accept any involvement of Malabu as the co-owner of the bloc disregarding Federal Government's laudable indigenization and local content program in the country we humbly ask should be revisited by the Honorable Committee.

Customarily and ordinarily, ENI and Shell ought to have paid the signature bonus on behalf of Malabu as was the case in other situations but Malabu was forced to pay. Malabu is now seizing this golden opportunity to ask the Honourable House of Representatives to direct the Ministry of Justice and Ministry of Petroleum to compel ENI and Shell to refund the Signature Bonus paid by Malabu back to it (Malabu) in the sum of \$210,000,000 USD

Following the standard practice in the industry, the duty and responsibility for payment of the signature bonus ought to be that of ENI and Shell. Furthermore, it was the understanding of Malabu that this was going to be the situation in this case when \$1,300,000,000 USD was being considered as consideration. This was the impression and understanding of Malabu. Unfortunately, this turned out not to be the case as the sum of \$210,000,000.00 USD signature bonus was, as it were, deducted from source, thereby compelling Malabu to pay the signature bonus in flagrant violation of standard practice in the industry. Appropriately therefore, Malabu considers it proper and just to demand for refund of the said payment to it by Shell and ENI. Malabu wishes to say that Shell put both the Federal Government and Malabu in the tight corner of hopelessness and helplessness with their onerous terms for settlement knowing fully well that both the Federal Government and Malabu Oil and Gas Ltd had little choice to make at the point in time. Malabu had always desired to keep some twenty percent interest in the bloc, and would still have loved to but Shell's uncompromising attitude and their dictating the terms of the basis for the negotiation gave no room than to succumb to the overwhelming decades of Shell.

It will be recalled that the House of Representatives of the 5th Assembly in the same vane, based on a petition written to it by Malabu Oil & Gas Limited, conducted an investigation into the award of OPL 245 and consequent upon the body of documentary evidence available to the Committee, in addition to the

entire evidence before it, made the following recommendations which were adopted by the 5th Assembly.

1. The revocation of the petitioner's license to operate OPL 245 should be set aside forthwith. This position is predicated on the facts before the Committee that Malabu was lawfully awarded OPL 245, and the fact that the revocation did not comply with laid-down procedure as stipulated in the Petroleum Act. Consequently, Malabu should be given unfettered access to the Oil Block OPL 245 forthwith.
2. Having carried out a comprehensive survey of the block in dispute, it was wrong in the view of the Committee for Shell to have taken advantage of the information gathered from the survey to not only outsmart its technical partner Malabu but also Exxon Mobil in the bidding that subsequently took place which excluded Malabu after the revocation of its license.

Consequently, the Committee takes serious view of the conduct of Shell in this regard and recommends that the Federal Government should reprimand it for unethical business practice.

3. The Committee finds the reasons given by DPR Counsel for the revocation as extraneous. It remains a puzzle that the DPR and the Ministry of Petroleum resources after their assurances to Malabu Oil and Gas Ltd in the year 2000 and 20001 that OPL 245 was not affected by the revocation of its block by the Federal government and their advice that Malabu could commence operation on OPL 245, the subsequent revocation was most embarrassing unjustified and indeed against the norms of equity and fairness. This is even more so when it is recalled that similar oil blocks also given to other indigenous companies by the same authorities with the same conditions and terms as Malabu were not revoked.
4. The Committee believes that the circumstances and seeming secrecy with which the revocation was made and re-award to another Company-Shell are not in tandem with the policy of the Federal Government on accountability, transparency and indigenous participation in the upstream operations of the industry. This being the case, the Committee calls on the Federal Government to revoke forthwith, the license to operate OPL 245 granted to Shell as the award was made in very murky circumstances and especially when the agreed signature bonus of \$210,000,000 has up till

date not been paid by Shell to the Government of the Federation in violation of the Petroleum Act.

5. Furthermore, the Committee notes the monetary compensation of US\$3,000,000,000 which Malabu has requested as claims against Shell. The Committee is unable to grant this relief for its sheer size.

However, it is recommended that Shell Nigeria Ultra Deep Limited should pay to Malabu the sums listed hereunder:

- a. The contractual obligation owned to Malabu by Shell US\$150,000,000.00.
 - b. Compensation and damages for losses suffered by Malabu Oil and Gas Limited= US \$400,000,000.00
6. The Federal Government is advised in the national interest to be vigilant at all times to prevent the foisting and/or perpetuation of economic imperialism on the country by multinationals through tempting monetary inducements and other collaborative contrivances with high ranking officials of government.
 7. Government's policy of encouraging indigenous participation in the upstream sector of the oil industry is in grave danger. Their dependence on multi-national key players for technical expertise has made them vulnerable to high-voltage business scheming, thus placing them at grave disadvantage. The Malabu case stands out in this regard. Therefore, the Committee urges the government to exercise more caution in the application of the Petroleum Act and regulations to shield indigenous companies from being held out as business pawns in the hands of multinationals.
 8. The Committee notes the sudden and dramatic flight of Shell to law Court to take refuge just when it was its turn to give evidence in the Malabu affairs. This action is in itself suggestive of guilt.
 9. The refusal of Shell's managing director, Mr Ron Van Der Berg to honour the summons of the Committee is also contemptuous and indicated that he may not have played a noble role in the events that led to the revocation of OPL 245. His conduct to say the least is despicable and barbaric.
 10. Exxon Mobil was a responsible witness in the Committee's investigation. The Committee commends the Company's corporate behaviours to other

multinationals in the oil sector in the country. The Committee found out that the company resisted to be lured into cloudy events that led to the award of the OPL 245 to Shell.

11. The Committee recommends to the House, the need for a wholesome review of the Petroleum Act to bring same in line with modern practise globally and to prevent a reoccurrence of the events, which led to the revocation.
12. In view of the sharp practises being perpetrated by Shell in the Country's oil industry as typified by this case and others, there is the need for the National Assembly to critically look into the joint venture partnership and other business relationships between Shell and the NNPC. This is with a view to ascertaining the extent of financial loss the country may have suffered by their sharp and unwholesome practices”.

6. ALH. MOHAMMED SANI:

R. O Atabo representing Alhaji Mohammed Sani stated that Mohammed Sani holds 50% shares of Malabu Oil and Gas Limited, while Mr Kweku Amafeha and Hassan Hindu owned 30% and 20% of the shares respectively. According to him, after its incorporation in 1998, Malabu Oil and Gas Limited applied and was granted oil prospecting licenses for offshore oil and gas concessions Blocs OPL 245 and OPL 214. R. O Atabo Esq, stated that even when his client has not divested himself of his shares in the Malabu Oil & Gas Limited, he surprisingly discovered that Alh. Mohammed is no longer reflected as either a shareholder or a Director in the company's documents at the Corporate Affairs Commission (CAC)

Furthermore, it was discovered that various share transfer documents have been forged, illegitimate corporate documents purporting to alter the equity structure of MOGL have been filed, improper shareholder and Board resolutions purporting to make unauthorized changes to the constitution of the MOGL Board of Directors have been made. According to records found at the Corporate Affairs Commission (CAC), the current directors of the company are now listed as Mr. Seidougha Munamuna and Mr. Joseph Amaran (both surrogates of Mr. Dan Etete; one of Our Clients initial partners).

After its incorporation in 1998, MOGL applied for and was granted oil prospecting licenses for Offshore Oil and Gas Concessions Blocks OPL 245 and OPL 214. Recently, Mr. Dan Etete purporting to act as the sole owner of MOGL and under the facilitation of the Federal Government of Nigeria and with the assistance of certain officials of the Ministry of Finance and the Ministry of Justice, have transferred or assigned or relinquished MOGL OPL Block 245 to SNEPCO and NAE for the sum of one billion, three hundred million US Dollars (USD\$ 1, 3000,000,000.00) only. Upon payment of the USD\$1,3B by the Shell/ENI Consortium, a sum of Two Hundred and Eight Million US Dollars (\$208,000,000.00) was paid to the Federal Government of Nigeria as operative bonus leaving a balance of Eight Hundred and One Million And ninety –Two Thousand US Dollars (USD\$801,092,000.00).

The Ministry of Finance acting in concert with the Ministry of Justice have caused the sum of Eight Hundred and One Million and Ninety-Two Thousand Dollars (USD \$ 801, 092, 000.00) to be remitted to Mr. Dan Etete through the accounts of MOGL, which accounts are solely managed by and /or under the exclusive control of Mr. Dan Etete notwithstanding the fact that Mr. Dan Etete is neither a listed shareholder nor a director of MOGL.

This payment was facilitated through a Depository Escrow account No. 41454193 which the Federal Government of Nigeria opened purposely for this transaction with a Branch of JP Morgan Chase Bank in London, United Kingdom.

He concluded by stating that his client, Alh. Mohammed Sani has been defrauded by Chief Dan Etete and his cohorts and that he vehemently protests the active participation of the Federal Government of Nigeria and connivance of the officials of government in the Ministries of Petroleum Resources, Justice and Finance in the fraudulent process that has deprived his client of his rightful entitlement. According to the submission by Alh. Mohammed Sani, he founded and incorporated Malabu Oil and Gas Limited, along with two others, namely, Mr Dan Etete and Alh. Hassan Lawal (Wakilin Adadamawa). The company was incorporated on the 24th April, 1998 with share capital of twenty million ordinary shares, while Mr

Kweku Amafegha, the nominee of Mr Dan Etete subscribed to 6,000,000 (six million) shares and Hassan Hindu the nominee of Alh. Hassan Lawal , subscribed to 4,000,000 (Four million) shares. They were all directors of the company, with Mr Rasky Gbinigie as secretary.

Alh. Mohammed Sani further stated his company, applied and was allocated oil bloc OPL 245 and 214 on 29th April, 1998 by the Federal Government of Nigeria (FGN). In order to develop the oil bloc, the company directors approached some international oil companies, particularly Philips Oil (Nig) Ltd to discover that various share documents have been forged, illegitimate corporate documents purporting to alter the equity structure of the Malabu Oil and Gas Limited and board resolutions purporting to make unauthorized changes to the Constitution of the company board of directors have been made at the Corporate Affairs Commission. Futhermore, he was also shocked that Mr Dan Etete acted as the sole owner of Malabu Oil and Gas Limited and relinquished OPL 245 to Shell Nigeria Exploration and production company (SNEPCO) limited and Nigeria Agip Exploration Limited (NAE) for the sum of one billion, ninety-two million and forty thousand US dollars only, which was paid into an account in the name of the Federal Government of Nigeria in a J.P Morgan Chase Bank NA Branch, London and the Federal Ministry of Finance caused the sum of USD\$801,092,000 to be remitted to Mr Dan Etete from the payment , Alh. Mohammed Sani stated that he never divested himself of his shares in Malabu Oil & Gas Limited and is therefore entitled to the payment made to Malabu Oil & Gas Limited in respect of OPL 245.

7. PECOS ENERGY LIMITED:

Aliyu Umar Esq presenting for Pecos Energy Limited, gave brief history of Malabu Oil and Gas Limited, which he said was incorporated in the year 1988 by the Corporate Affairs Commission and was issued a certificate No 334442. According to him, the subscribers to the memorandum and Articles of association were Mohammed Sani, with fifty percent (50%) shareholding, kweku Amefegha, with thirty percent (30%) shareholding and Hassan Hindu also with 20% shares. They were also the Directors of the company. Among the assets of the company were two oil prospecting

licenses, namely OPL 245 and OPL 214, which were allocated by the Federal Government of Nigeria.

He further stated that Shell Nigeria Ultra Deep Limited (SNUD), Nigerian Agip Exploration Limited (NAE) and Shell Nigeria Exploration and production Company Limited (SNEPCO) are Nigerian Companies, incorporated by laws of Nigeria as they carry on their business in the country. Apart from this knowledge, the above named companies, that is, SNUD, NAE and SNEPCO are also aware of the interest of Mohammed Sani and Messrs Pecos Energy Limited and Malabu Oil and Gas Limited. Between 2009 and 2011, SNUD, SNEPCO and NAE agreed to buy OPL 245 and negotiated with Mr Dan Etete for the price of \$1.3 billion (USD one billion, three hundred million dollars), money paid to Mr Dan Etete, without the consent and knowledge of Alh. Mohammed Sani and Pecos Energy Limited. Concluding, Aliyu Umar Esq stated his clients being bonafide owners of 70% of Malabu Oil and Gas Limited they are entitled to 70% of whatever money that was paid to Mr Dan Etete in respect of OPL 245.

ISSUES FOR DETERMINATION

From the submission and presentations at the Public Hearing, the Ad-Hoc Committee formulated the following issues for determination.

- a. The legality or otherwise of the transactions.
- b. The observance of the various Nigerian Legislations in the transaction.
- c. The roles played by Federal Government of Nigeria HAGF and other government agencies and agents.
- d. Whether or not due processes and laws were followed in all these transactions.
- e. To ascertain if Ministries, Agents, Agencies and Companies had followed due diligence.
- f. Examine the cause and extent or otherwise involvement of the Federal Government of Nigeria as an obligor in an alleged commercial contractual relationship.

FINDINGS

1. The issue of OPL 245 bothers on a dispute of ownership between Malabu Oil and Gas Ltd, SNUD (Shell Nigeria Ultra Deep) and the Federal Government of Nigeria which by extension NNPC. No other party or parties are known to be part of the said dispute.

We therefore conclude that the resolution agreement if any must be between these three parties.

NAE could not explain to the satisfaction of the Committee how they came to be part of the dispute resolution agreement, more so when they insisted that they did not buy any interest in OPL 245, but ended up having 50% equity in the block (245) and at the same time a signatory to the dispute Resolution Agreement. This is very worrisome. Agip in quote *" In response to your letter dated 31st July, 2012, we wish to state that Nigerian Agip Exploration Limited did not enter into the transaction reflected in the Block 245 Resolution Agreement ("FGN Resolution Agreement") on the basis of any invitation letter from person/persons authority/body inviting Nigerian Agip Exploration Limited to come to and resolve the dispute between the Federal government of Nigeria, Malabu and Shell Nigeria Exploration and Petroleum Company Limited or to participate in the transaction"*.

The process that brought NAE into this resolution agreement lacks transparency and due process.

2. Available records show that SNUD entered into a production sharing contract with NNPC on 22nd of December 2003, UPON WHICH THEIR CLAIM TO OPL 245 IS ANCHORED.

The signature bonus in the bid round won by SNUD was Two Hundred and Ten Million United States Dollars (\$210,000,000) but surprisingly the only amount paid by SNUD was One Million United States Dollars (\$1,000,000) to the FGN and kept the balance Two Hundred and Nine Million United States Dollars (\$209,000,000) in an escrow account controlled by SNUD; this therefore indicates that the amount paid as Signature Bonus for the execution of the 2003 PSC is One Million United

States Dollars (\$1,000,000). This is clearly in violation of the Petroleum Act.

3. In Clause 1.1 of the dispute resolution agreement SNUD agreed to the re-allocation of its interest in Block 245 to SNEPCO and SNEPCO agreed to reimburse SNUD the sum of Three Hundred and Thirty Five Million, Six Hundred Thousand United States Dollars (\$335,600,000) incurred by SNUD in an alleged work-programme pursuant to the terms of the 2003 NNPC/SNUD PSC and another Two Hundred and Seven Million, Nine Hundred and Sixty Thousand United States Dollars(\$207, 960, 000) representing Signature Bonus totalling Five Hundred and Forty Three Million, Five Hundred and Sixty Thousand United States Dollars (\$543, 560,000). The only interest left in this situation is that of NNPC which by extension the Federal Government of Nigeria since SNUD has sold its interest in block 245 to SNEPCO.
4. Clause 1.4 of the dispute resolution agreement surprisingly terminated the 2003 PSC between NNPC and SNUD upon the grant of the Oil Prospecting License to SNEPCO and NAE (NAE, an unknown party to the dispute). The question that needs to be answered is what happened to the NNPC subsisting interest in the 22nd December 2003 PSC.
5. The Resolution Agreement in Clause 4, 5, and 11 ceded all rights and obligations in respect of block 245 to SNEPCO and NAE, they both signed a Production Sharing Agreement where they now own the block 100% with 50% interest each. This is also a violation of the Deep Water Block Allocations of Company's Regulations 2003. The issue that keeps rearing its head is, where is our National Interest in block 245?
6. Clause 10 grants full and unconditional exemption from any obligation and liabilities in respect of Capital Gain Tax, Taxes on Income , Withholding Taxes and Value Added Tax in respect of the transactions and payments mentioned in Clause 1 arising from or relating to this FGN Resolution Agreement. This has clearly gone beyond the role of an Obligor with great inherent liabilities to the Government of our Nation.
7. From the position paper presented by the HAGF, he claimed that the role of the FGN in the dispute resolution was that of an Obligor but Clause 17 in the dispute resolution agreement clearly stipulate that the FGN SHALL indemnify, save and hold harmless and even defend SNUD, SNEPCO and NAE from and against all suits proceedings, claims, demands, losses and liability of any nature or kind, including but not limited to all

litigation costs, attorney's fees, settlement payments, damages and all other related costs and expenses, based on, arising out of related to or in connection with;

- i. The Federal Government of Nigeria Resolution Agreement
 - ii. The Resolution Agreement and or the issuance of the Oil Prospecting Licence in respect of Block 245.
8. The Indigenous Policy is a laudable policy of the FGN designed to encourage indigenous oil companies in participating in the upstream sector of the industry.

The indigenous oil companies are envisaged to depend on the multi-national key players for technical expertise, with a maximum participating interest of 40% for the multi-nationals.

In line with the Indigenous Policy and guidelines stipulated by the Department of Petroleum Resources (DPR), OPL 245, 246, 248 and 249 were awarded to indigenous companies as follows:

1. OPL 245 to Malabu Oil & Gas Ltd
2. OPL 246 to South Atlantic Petroleum Company
3. OPL 248 to Zebra
4. OPL 249 to Oil & Gas Ltd

In a memo to His Excellency Dr Goodluck Ebele Jonathan, GCFR, President and Commander-in-Chief of the Armed Forces, Federal Republic of Nigeria, HAGF/SH/2010/VOL1/34 dated 25th May, 2010, in paragraph 16 & 17 of the memo, the HAGF stated and we quote;

" it also smacks of sharp business practices on the part of SNUD to bid for a Block for which it had a subsisting technical agreement with another company. Cognizance must also be taken of Government's underlying policy decision of encouraging the participation of indigenous oil and gas companies in the upstream sector of the oil industry. The policy was not designed to encourage international oil companies who are already major players in the industry to take over concessions granted to indigenous companies who are small/minor players in the industry at the moment. In view of the foregoing, it is necessary for government to give effect to the terms of the Settlement Agreement with Malabu. This will not only send positive signals to indigenous companies

operating in the upstream sector, but also the international community that there is respect for sanctity of contracts in Nigeria. In this regard, SNUD's claims for compensation under the PSC can be accommodated either by a negotiated settlement with Malabu or through the allocation of another Block on terms as government may deem fit".

The manipulation by SNUD of the Indigenous Policy is a very serious issue of concern to the Committee; the frustration of Malabu Oil and Gas Company by Shell should be clinically analysed. It started by the issuing of a dud cheque of Seventeen Million, Nine Hundred and Sixty Thousand United States of Dollars (\$17,960,000) as balance for the Signature Bonus after signing a technical and farm in agreement with Malabu Oil and Gas Ltd.

Despite a subsisting technical and farm in agreement with Malabu Oil & Gas Ltd Company in place, Shell went ahead and bided the sum of Two Hundred and Ten Million United States Dollars (\$210,000,000) as signature bonus for block 245 on the excuse that they were invited by the FGN.

The signature bonus placed on the Block as issued to Malabu was twenty Million United states dollars (\$20,000,000) Malabu had paid the sum of Two Million and Forty thousand USD (\$2,040,000) and as a normal practise in the industry, Shell Nigeria Ultra Deep Ltd (SNUD) was expected to pay the balance of Seventeen Million, Nine Hundred and Sixty thousand USD (\$17, 960,000) in view of SNUD's Farm-In Agreement with Malabu Oil and Gas Ltd. However, SNUD could not redeem the obligation as it issued a dud cheque for the sum of seventeen million, nine hundred and sixty thousand United States Dollars (\$17,960,000).

The point to note here is the increase of the Signature Bonus bided by SNUD, a signature bonus with an original sum of Twenty Million Dollars (\$20,000,000), expected to be paid by Malabu Oil & Gas Ltd to Two hundred and ten million USD (\$210,000,000) occurring a substantial difference of One Hundred and Ninety Million USD (\$190,000,000) (₦29, 830,000,000). The singular reason that can be deduced from SNUD's action is predicated on its prior knowledge of the huge potentials of the block.

Bloc 245 is a Deep water acreage in the Gulf of Guinea of the Nigerian Coast. The Reserve deposit of the block is estimated to be over 9.23 billion barrels of crude oil recoverable (without taking cognisance of the equally huge gas deposit quantum in the block). The commercial value of the huge reserve is projected to be well over a trillion dollar. The under value of block 245 in the 22nd Dec 2003 PSC is an issue of concern to the Committee. A Bloc with a reserve deposit estimated to be over 9.23 billion barrels crude oil recoverable, which is one of the richest deposits in our country, was underestimated in the PSC at 447 million barrels proven reserve, twenty times below the actual value. Could this be a mistake or was it intentional? Could this also be the reason SNUD wanted the Block 245 at all cost? If not, how else could the entire SNUD's conduct be explained? A reputable company that is expected to implore transparency and best international business practises participating in a bid round for block 245 in which they had a subsisting technical and farm-In Agreement with Malabu Oil and Gas Ltd, mindful of the equally subsisting fact that SNUD is aware that the dispute over the revocation of the license of Malabu Oil and Gas Limited for Block 245 was before a court of competent jurisdiction.

9. The Federal Government as at then did not give any reason for the revocation of Malabu's right to OPL 245, nor have they given any reason till date. This clearly smears of some under hand dealings and the Technical partner to Malabu ended up as the winner of the bid round.

After bidding Two Hundred and Ten Million United States Dollars (\$ 210, 000,000) as the highest bidder, Shell paid only One Million USD (\$1,000,000). On the basis of the said One Million United States Dollars (\$1,000,000) payment, **SHELL SIGNED A PRODUCTION SHARING CONTRACT WITH NNPC AND HELD ON TO PSC AS THE CONTRACTOR.**

10. The Committee could not establish any reason why FGN insisted that Malabu Oil and Gas Company Ltd should pay a signature bonus of \$210,000,000.00 bid by SNUD, (the technical partner to Malabu) with a Farm in agreement in respect of block 245 with Malabu in place, instead of the \$20,000,000.00 of which the sum of \$2,040,000 has already been paid to the FGN for the License of OPL245.

It is worthy to note that the guiding principle of the award of block 245 to Malabu Oil and Gas Ltd is the INDIGENOUS POLICY.

This policy was design to encourage our indigenous oil companies to participate in the upstream sector of the oil industry. This action was a clear attempt to frustrate the indigenous policy by SNUD and their cohort in government, knowing the great potentials of the block.

11. Our findings could not indicate any where Malabu Oil and Gas Ltd willingly inclined to relinquish the oil block. Where such inclination is presumed, they were rather forced on the company. The company was thoroughly subdued to the extent it has no choice but to succumb, typical of a hostile acquisition modus operandi. A hostile acquisition is an outcome where an owner is relieved of its rights forcefully. It will be left with no option but to sell.
12. The re-allocation of the OPL 245 to Shell/NAE will be inimical to the indigenous policy programme, as its allowance will become the complete abandonment of that laudable policy and would be in conflicts with the equally laudable transformation programme of this administration and our local content laws. It will be ironical that such a laudable programme on which OPL 245 was allocated and reallocated to Malabu Oil and Gas Company Ltd is allowed to be circumvented.
13. SNUD technically transferred or sold its own share in the 22nd December, 2003 PSC to (SNEPCO) and voided the PSC, the basis on which its ownership claim anchors.
14. Signature Bonus is a very indispensable component in an Oil Block rights. It is the basis for signing a PSC, the basis on which Shell contended ownership in the OPL 245, We quote the HAGF in his presentation; "It is also important to note that SNUD had entered into a production sharing contract with NNPC in 2003 upon which their claim to OPL 245 was anchored and had paid \$1m US Dollars out of the \$210 million US Dollars Signature Bonus to the Federal Government, and kept the balance of \$209 million US Dollars in an Escrow account with J. P Morgan pending the resolution of the dispute between Malabu and Federal Government". Yet Shell claims it carried out substantially de-

risked on OPL 245 based on the PSC with NNPC. An illegality cannot be legal. Any permit or authorisation to carry out an illegality is itself illegal.

15. The Committee also found in similar allocations granted under the indigenous policy programme. The original owners, even when divested of full rights, remained and reserved equity of between 15%-20%.

16. How Agip became part of this transaction and now own 50% of OPL 245 is still a myth, Agip affirmed this position when it stated clearly that they did not buy their 50% stake in OPL 245 but ended up paying over \$1 Billion Dollars for the said stake; their action lacked transparency and due process and a clear violation of the Petroleum Act as it bothers on the bidding process and a clear attempt to evade our tax laws.

It is also important to note that the Indigenous Policy that guides the award of OPL 245 is very clear and the HAGF laid emphasis on it in his memo to Mr president, where he stated clearly that this Policy was not designed to encourage international major oil companies (referring to Shell) to take over concession granted to indigenous oil companies who are minor players.

Surprisingly, The FGN ended up signing a Resolution Agreement handing OPL 245 100% to two international oil majors (NAE& SNEPCO).

The Committee therefore notes that the maximum stake any international oil company or companies can acquire in OPL 245 in respect of the Indigenous Policy is 40% of the said Block. Anything above 40% negates the spirit of the Indigenous Policy.

17. The payment of USD 1, 092,040,000 to Malabu Oil and Gas Ltd through the FGN impose liability on the part of the FGN and do not imply the description of the mere facilitator role attributed to the Federal Government of Nigeria. To buttress our position, reference should be made to Section 17 of the dispute resolution agreement where it was clearly stated that, the FGN shall indemnify, save and hold harmless, defend SNUD (that has sold its stake in OPL 245, (NAE, an unknown party to the dispute). SNEPCO and NAE from and against all suits,

proceedings, claims, demands, losses and liability of any nature or kind, including but not limited to all litigation costs, attorney fees, settlement payments, damages and all other related costs, are expenses based on arising out of related to or in connection with;

- i. This FGN Resolution Agreement
- ii. The Resolution Agreements and/or
- iii. The issuance of the oil prospecting license in respect of Block 245 jointly in the name of SNEPCO and NAE and arising out of and asserted prior interest in Block 245 and responsibilities.

18. Payment of USD1, 092,040,000 into the FGN facility at the J.P Morgan for onward transfer to Malabu Oil and Gas Ltd smacks of lack of transparency and due process. The committee found that in an escrow arrangement, Shell/Agip paid USD1.092, 000,000(through the FGN) into an account at JP Morgan Chase, New York, for onward transmission to Malabu Oil and Gas Ltd. Intermediation lodgements were then remitted into Keystone Bank-USD400,000,000, First Bank- USD401.500,000. Individuals and companies were also linked to receiving and transferring monies. Matters the committee found are pending at the EFCC in an on-going investigation.

19. It is surprising that the objective of the resolution Agreement was to resolve all the contending claims in a satisfactory and holistic manner, unfortunately our National interest in OPL 245 knowingly or unknowingly was ceded away to the two oil majors. It is important to point out for the records that the PSC signed on the 22nd of December 2003 between SNUD and NNPC is the basis of SNUD's claim to OPL 245.

20. The Indigenous Policy authorises 40% maximum ownership to foreign oil companies, anything above negates the spirit of the Indigenous Policy.

21. The FIRS failed to debate extensively the position that the transaction under scrutiny is exempted from capital Tax on the presumption that no sale or transfer occurred. It should have given cognisance to the consideration of NAE availment of USD1,092,000 being claimed as compensation to Malabu Oil & Gas Ltd. it is this payment that brought NAE into OPL 245.

22. The Committee found that, Malabu Oil and Gas Ltd obeyed the instructions of the Federal Government of Nigeria that each side to the dispute over OPL 245 must be ready to compromise their various litigious positions to reach an amicable settlement. However, it was further discovered that the Indigenous Policy Programme of the FGN that guided the award of oil blocs of the same era was abandoned in the case of OPL 245; instead, OPL 245 was awarded to SNUD and NAE on 50%-50% equity. This outcome eliminated the indigenous policy programme and the indigenous Oil and Gas Company's content in the bloc.

From the preponderance of evidence available to the Committee, it was discovered that Malabu Oil and Gas Limited was incorporated as a limited liability company by the Corporate Affairs Commission in 1998 and was issued a certificate No. 334442. The subscribers at registration of the company were Mohammed Sani, Kweku Amafeha and Hassan Hindu who were also the directors of the company. Hassan Hindu who has 20% shares of Malabu Oil and Gas Ltd, sold the 20% share to Pecos Energy Ltd for the sum of \$5,000,000 (Five million United States Dollars) photocopy of the said cheque paid to Hassan Hindu was also attached to the presentation of Pecos Energy Ltd. It can be concluded that Pecos Energy Ltd owns 20% of Malabu Oil and Gas Ltd. Therefore, the ownership structure of Malabu Oil and Gas Ltd is as follows: Alh. Mohammed Sani 50%, Mr Kweku Amafeha 30%, Pecos Energy Ltd 20%. However, at some point due to internal wrangling, the ownership of Malabu Oil and Gas Limited became disputed among the owners leading to petition by one A.A Umar & Co on behalf of Mohammed Sani and Pecos energy to the Economic and Financial Crimes Commission, on alleged issue of forgery and alteration of the ownership structure of Malabu Oil and Gas Ltd. The EFCC confirmed the receipt of this petition which they investigated without a report. They have however confirmed to the Committee that their investigation is still on-going and the final report will be submitted to the Committee as soon as the investigation is concluded.

RECOMMENDATIONS:

Guided by the provisions of the 1999 Constitution as altered, specifically, Section 44 Sub Section 3, the Petroleum Act, the Indigenous policy and our findings, the Committee therefore recommends as follows:

1. That the Federal Government of Nigeria should cancel OPL 245 recently granted to SNEPCO (50%) and AGIP(50%), as it was based on a highly flawed 'Resolution Agreement' entered into between Malabu Oil & Gas, SNEPCO and Nigeria Agip Exploration Ltd (NAE) with the Federal Government acting as Obligor. The 'Resolution Agreement' ceded away our National Interest and further committed Nigeria to some unacceptable Indemnities and liabilities while acting as an Obligor. Indeed, Clause 17 of the 'Resolution Agreement' commits the Federal Government of Nigeria to indemnify, and even defend SNUD, SNEPCO and NAE from and against "all suits, proceedings, claims, demands, losses and liability of any nature or kind, including but not limited to all litigation costs, attorney's fees, settlement payments, damages and all other related costs and expenses, based on, arising out of related to or in connection with" the 'Resolution Agreement' and or the issuance of the Oil Prospecting License in respect of Block 245.
2. That the Federal Government through the Ministry of Petroleum Resources and the office of the Attorney-General of the Federation facilitates a new 'Resolution Agreement' in line with the Petroleum Act, and the Indigenous Concession Programme (ICP) of Government that guided the initial allocation of OPL 245 to Malabu Oil & Gas, as a situation where the 'Resolution Agreement' diverted 100% of the beneficial ownership to two foreign based companies is contrary to our national aspirations.
Indeed and 'Resolution Agreement' should acknowledge Nigeria's National interest in the huge deposits existing in the Block.
3. Direct the Committee on Upstream, Downstream, Gas and Local Content to liaise with the Ministry of Petroleum Resources to make available a comprehensive list of similar ventures with Petroleum Sharing Agreement or contract without NNPC participation, for necessary remediation.
4. The AGIP (NAE) be formally censured or reprimanded by the House for its role in the 'Resolution Agreement' which lacked transparency and did

not meet international best business practises. The 'Resolution Agreement' was meant to resolve existing disputes between the various parties, which even by AGIP's acknowledgement they are not party to the disputes. In the process, they cornered 50% equity in Block 245.

5. Shell Nigeria Ultra Deeps (SNUD) be censured or reprimanded by the House for its lack of transparency and full disclosure in its bid to acquire OPL 245.
6. That the ownership structure of Malabu Oil and Gas Ltd flowing from our findings and EFCC interim report, is as follows:
 - a) Mohammed Sani (Abacha)(or his Successors in title)- 50%
 - b) Kweku Amafegha (Dan Etete)(or his Successors in title) – 30%
 - c) Pecos Energy Ltd. – 20%

Consequently, the office of the Attorney General, Ministry of Petroleum Resources, and Ministry of Finance should take this into consideration in any dealings with respect to OPL 245.

7. The Nigerian Police Force should take over the on-going investigation on the matter of forgery and alteration of documents indicating some Malabu Oil & Gas Ltd directors resigned their positions or transferred their appointments or shares without their authorisation, and initiate prosecution of any person indicted.
8. In line with Global best practises, accountability and transparency, individuals and financial institutions (First Bank Of Nigeria Plc and Keystone Bank Plc) linked and found culpable receiving and transferring monies unlawfully by EFCC with respect to or arising out of the 'Resolution Agreement', should be charged to an appropriate court of competent jurisdiction, and any such monies unlawfully transferred should be recovered.
9. In the redraft of a new 'Resolution Agreement', Nigerians tax laws should be respected, and consequently where applicable, the Federal Inland Revenue Service should take all necessary steps to impose Capital Gains Tax on the Shell (SNEPCO-SNUD) transaction as the payment or reimbursement of \$355,000,000 from SNEPCO to SNUD contained in the 'Resolution Agreement' is clear evidence of some form of alienation or transfer of interest that satisfies the requirement for tax purposes.