



FEDERAL MINISTRY OF ENVIRONMENT

HEADQUARTERS, MABUSHI, ABUJA.

Ref No..... FOR/GEN/1027/89

Date: 11TH September, 2018

The Secretary-General CITES,
International Environment House,
Chemins des Anemones
CH-1219 Chatelaine-Geneva
Switzerland.

ATTENTION: Johannes Stahl

Your Excellency

SUBMISSION ON NATIONAL IVORY ACTION PLANS (NAIPs) PROGRESS REPORT FOR NIGERIA

I am directed to forward the following documents on the above subject matter to your office:

- a) Nigeria National Ivory Action Plan Progress Report with Pictorial Illustration and Justification;
 - b) The National Wildlife Species Protection Act, The Endangered Species (Control of International Trade and Traffic) Amendment Act 2016;
 - c) Convention of International Trade in Endangered Species of Wildlife Fauna and Flora (CITES) flyers/handbill
 - d) Review of National Environmental Standards and Regulation Enforcement Agency (NESREA) Act 2007 and Regulation 2009-2011.
2. The above documents are attached for your necessary action and to acknowledge receipt, please.
 3. Accept the assurances of my Minister's highest regards and best wishes.

A handwritten signature in blue ink, appearing to read 'Ehi-Ebewele Elizabeth'.

Dr.(Mrs) Ehi-Ebewele Elizabeth

For: Honourable Minister

PROGRESS REPORT
ON
NIGERIA NATIONAL IVORY ACTION PLAN



PREPARED
By
FEDERAL MINISTRY OF ENVIRONMENT
(DEPARTMENT OF FORESTRY)
SUBMITTED TO
THE CITES SECRETARIAT

September, 2018

ACRONYMS

ETIS: Elephant Trade Information System

FDF: Federal Department of Forestry

FMENV: Federal Ministry of Environment

INTERPOL: International criminal Police Organization

MIKE: Monitoring of Illegal Killing of Elephant

NCF: Nigerian Conservation Foundation

NPS: National Park Services

NIAPs: National Ivory Action Plans

NESREA: National Environmental Standards and Regulations Enforcement Agency

NAQS: Nigeria Agricultural Quarantine Services

NCS: Nigeria Custom Service

NCB; National Center bureau

UNESCO: United Nation Educational scientific and Cultural Organization

WCS: wildlife Conservation Society

SYNOPSIS OF NIAP IMPLEMENTATION

Nigeria was included as one of the eleven countries identified as countries of “Secondary Concern” by the CITES Standing Committee at 65th Meeting (SC65, Geneva, July, 2004). Various evidences show that the country is identified as transit for illegal trafficking of wildlife products including elephant ivory. Illegal trade and trafficking in wildlife is one of the challenges that is negatively affecting wildlife resources particularly those species that have market value example is elephant which is mainly harvested for its ivories.

Amendment of the legal frame work on Endangered Species law, Inter-Agency Collaboration, Anti-poaching strategy developed on priority sites, effective monitoring and protection of elephants Game Reserves (Yankari Game Reserve, Cross-River National Park and Okomu National park) are among the activities performed by relevant Agencies to address the challenges. Federal Ministry of Environment, Department of Forestry is the legislative authority which has been able to work closely in cooperation with other relevant Agencies such as NESREA, National Park Service (NPs), Custom Authority, Airport Authority, Ministry of Justice (judiciaries), Police, Interpol and NGOs to tackle illegal trade in ivory and wildlife products..

Nigeria NIAP has been developed and accepted by the CITES Secretariat as an effort to eradicate illegal ivory trade across the Country. The priority action plan is organized in five section which include Legislation, Prosecution, Intelligence and Investigations, National and International Wildlife Crime Cooperation and Law Enforcement Operations. Total number of 28 key priority actions was developed and each of which involves several activities to be implemented within the milestones. It is important to note that efforts for the implementation of important activities have started even before its submission. This progress is documented in the current report

The following progress were made in NIAPs

- The review of Endangered Species Act was signed by the President of the Federal Republic of Nigeria on the 30th December, 2016. The Act contains very stringent penalties for illegal activities/trade in Wild (Fauna & Fauna)
- List of priority elephant sites established eg Yankari, Cross-River and Okomu National park, Okomu.
- Improvement status and capacity building of patrol staff in key priority elephant sites.
- Inter-Ministries/ Agencies cooperation towards the control of illegal trade in ivories and presentation of NIAP to potential stakeholders and ensure their participation in the agreed between agencies involved in NIAP implementation
- Workshops/ training organize with the Ministry of justice, Interpol, Nigeria Quarantine Services, NESREA, Custom and NGOs e.g NCF to develop recommendations on wildlife law and how to apply the law and Implementation of the workshop’s recommendations (for example specialized prosecutors appointed in each of the Federal State and Legislation training session organized for judiciary, police in different enforcement institutions and trained personnel on enforcement targeting on wildlife crime and the understanding of the fines.

- Inventory of stocks of ivory seized and updated the date the items were confiscated, sources of the ivory, comprehensive list of stocks of ivory held at NESREA and by other agencies and government service were documented.
- Printing of flyers and distribution to the passengers, airlines and Customs.

- Provision of equipment for identification of ivory and wildlife specimen on Nigeria borders which include Chad Border, Republic of Benin border, Cameroon border and Niger border and staff trained on the use of the equipment for effective identification of wildlife specimen to increase levels of detection of illegal/ wildlife specimen
- Involvement of local communities in law enforcement activities through local intelligence gathering in key elephant sites
- Training of rangers to implement SMART at Yankari Game Reserve and Cross-River National Park.

Part of the progress report was an arrest made in connection to illegal possession of wildlife and wildlife products in the country. All suspects (among were Chinese) were convicted and penalized with fines. The report of the document also covers numbers of ivory seizure, number of arrest and number of pending cases if any are taken to court. (Annex xxvii)

SUMMARY OF THE PROGRESS REPORT

Pillar	PROGRESS RATING					
	Achieved	Substantially achieved	On track	Partial progress	Pending completion of another action	Not commence
A. Legislation and regulations	The review of Endangered Species Act was signed by the President of the Federal Republic of Nigeria on the 30 th December, 2016. The Act contains very stringent penalties for illegal activities/trade in Wild (Fauna & Fauna)	Review of National Park Service Act.Cap.L65.				
	National Environmental (Protection of Endangered Species) in International Trade regulations 2011, S.I No. 16	Legislation, harmonization and strengthen implementation of NIAPs at four (4) International airports e.g Lagos, Port-Harcourt, Kano and Abuja				
			Compendium of existing legislations and strict penalties prepared and printing .			

<p>National level enforcement action and inter-agency collaboration</p>	<p>Inter-Ministry/ Agencies cooperation towards the control of illegal trade in ivories and presentation of NIAP to potential stakeholders and ensure their participation in the TOR agreed between agencies involved in NIAP implementation</p>		<p>Supply chains to domestic markets to be broken through targeted law enforcement actions and large scale operation to close down illegal ivory trafficking at Lekki market.</p>			
	<p>Workshops/ training organize with the Ministry of justice, Interpol, Nigeria Quarantine Services,NPs NESREA, Custom and NGOs e.g NCF to develop recommendations on wildlife law and how to apply the law and Implementation of the workshop's recommendations (for example specialized</p>					

	<p>prosecutors appointed in each of the Federal State and Legislation training session organized for judiciary, police in different enforcement institutions and trained personnel on enforcement targeting on wildlife crime and the understanding of the fines.</p>					
	<p>Meeting with Federal, States and other stakeholders to discuss and identified the challenges in their wildlife legislation and modus operandi on how to handle illegal wildlife trade and Intelligence gathered to better understand supply chains to the domestic markets, developed intelligence and</p>	<p>Increase levels of wildlife staff like three (3) each in every exit points</p>		<p>Establishment of forensic laboratory to use its capacity for wildlife crime investigation and forensic expert hired</p>		

	<p>investigation procedure, setup a network between all Agencies at the border post to share intelligence on trafficking also Identify and recommendation of Uniform for NESREA staff</p>					
	<p>Provision of equipment (lens) for identification of ivory and wildlife specimen on Nigeria borders which include Chad Border, Republic of Benin border, Cameroon border and Niger border and staff trained on the use of the equipment for effective identification of wildlife specimen to increase levels of detection of illegal/ wildlife specimen</p>					
		.	<p>Meeting held with Lagos State Conservation unit</p>			

			to discuss the modus operandi on how to tackle the illegal wildlife trade in Lekki ivory market (Lagos) and detailed recommendations for actions developed.			
	NIAPs Committee meets once every 6 months to evaluate progress in implementation.		Consultation with Ministry of Justice on how to develop and manage the database			
	National Parks collaboration with CITES MA and local communities on mitigation strategy for reducing human and elephant conflict and other wildlife specimen.					
International and regional enforcement collaboration	.	Regional meeting cooperation with neighboring countries to discuss the discrepancies between the different wildlife legislations and to develop recommendation				

		already proposed				
		Meeting with agencies of neighboring countries especially Republic of Benin, Chad and Cameroon to discuss improving wildlife crime enforcement at common border and develop recommendations	.			
Outreach, public awareness and education	Training of rangers to implement SMART at Yankari Game Reserve, Cross-Rivers National Park, Okomu National Park, Edo State.	Electronic bill board display of illegal wildlife species at the major exit point.	A specialist training for at least 20 each for (FMENV),(FDF) and NESREA staff targeted for enforcement activities			Train staff of (FDF), NESREA staff on forensic analysis of seized items (atleast 5 staff from different agencies.
	Awareness raising activities on anti-poaching, illegal trade in ivories restoration of the Eco system for sustainable development among House of Assembly parliament and ensure	Train of 15 staff each of relevant agencies in wildlife investigation and the use of intelligence and investigation procedure. Intelligence network operation in combating				

	participation of local communities around key elephant sites.	illegal ivory trafficking.				
	Printing of flyers and distribution to the passengers, airlines and customs.					
	Patrol Staff. (Law Enforcement Managers, Rangers, Staff at all sites properly trained and equipped for effective monitoring, self-esteem and protection) in Yankari Game Reserve, Cross-Rivers National Park, Okomu National Park, Edo State.					
Reporting	Inventory of stocks of ivory seized, source, the date of seizuresc comprehensive list of stocks of ivory held at NESREA and by other Agencies of					

	government service.					
	Inventory of ivory in Lekki Market, Yar' Adua center Abj and hotels.					
	Database designed and tested in different transit route and Regular report to ETIS ensured.					
	All confiscated items with other Agencies will be brought together for proper documentation					
	Application of SMART on elephant priority site (Yankari Game Reserve and Cross River National Park) and Anti-poaching strategy developed with all stakeholders on each of the priority sites.					
	Sufficient financial means and resources made available to					

	<p>provide capacity building and apply the lessons learned on the ground and training of rangers in SMART in other priority elephant sites (Yankari Game Reserve and Cross River National Park).</p>					
	<p>Carry out an audit of the NESREA storage facilities and other storage facilities used for ivory. The rescue facility for confiscated wildlife products is reinforced and well secured.</p>					
	<p>List of priority site established and Patrol coverage protected areas increased. Improved intelligence gathering and data base management on potentially illegal activities</p>					
	<p>Anti-poaching strategy</p>					

	implemented in Yankari Game Reserve, Cross-Rivers National Park, Okomu National Park, Edo State.					
	Modern equipment for patrol and management supplied in Yankari Game Reserve and other priority sites.					

DETAILED EVALUATION OF ACTIONS

ACTION		EVALUATION		SUMMARY OF PROGRESS (AND COMMENTS)
PILAR 1: LEGISLATION AND REGULATION				
The review of Endangered Species Act was signed by the president of the Federal Republic of Nigeria on the 30 th December, 2016. The Act contains very stringent penalties for illegal activities/trade in Wild (Fauna & Fauna)	Approved Copy of the National Wildlife Species Protection Act, signed by the president of Federal Republic of Nigeria on 30 th December, 2016 (Attached)	Achieved	Amendment of the legal frame work (Wildlife Legislation) on Endangered Species Law was reviewed by team of wildlife base background, Legal practitioners, Judiciary, and Relevant stakeholders.	<p>Desktop review of different legislations and penalties stringent enough for illegal activities were carried out. Example of OFFENCES AND PENALTIES, FORFEITURES, FEES AND ADMINISTRATIVE CHARGES</p> <p>(1) It shall be an offence under this Act for any person(s) to conduct international trade in specimens of endangered species of wild fauna and flora in violation of the present Convention and this Act.</p> <p>(2) Any person who, in contravention of the provisions of this Act, hunts, captures, possesses, trades or otherwise deals in a specimen of wild fauna and or flora without the appropriate permits shall be guilty of an offence and liable on conviction:</p> <p>(a) in respect of a specimen under the First Schedule, to a fine of five hundred thousand naira (N500,000) or five (5) years imprisonment or both such fine and</p>

			<p>imprisonment;</p> <p>(b) in respect of a specimen under the Second Schedule, to a fine of three hundred thousand naira (N300,000) or three (3) years imprisonment or both such fine and imprisonment;</p> <p>(c) in respect of a specimen under the Third Schedule, to a fine of one hundred and fifty thousand naira (N150,000) or eighteen (18) months imprisonment or both such fine and imprisonment;</p> <p>Ministry of Justice input on the species protection draft.</p> <p>Submit bill to National Assembly (parliament) for passage into law, National assembly (parliament proceeding) on the Endangered Species amendment of the species act and Final draft species protection bill.</p> <p>Complete drafting and approval of the National Wildlife Protection Bill which includes the penalty that is sufficient and National Assembly approval of the amended bill. The species protection draft is submitted to Federal Executive Council (Government) for approval.</p>
<p>National Environmental (Protection of Endangered Species) | International Trade Regulations 2011, S.I No.16</p>	<p>Copy with Secretariat (Sensitive document)</p>	<p>Achieved</p>	<p>In-house and external Stakeholder’s Critic Meetings were held to review the National Environmental (Protection of Endangered Species) | International Trade Regulations.</p> <p>The bill was subjected to regulatory dialogue where all representatives from various states (Commissioners) were in attendance and afterward subjected to CITES Secretariat Critic.</p> <p>Ministry of Justices input for final approval and printing</p>

National Park Service Act CAP.L65	Draft Copy of the Bill (Attached)	On-track	Draft amendment of the law (reviewed) Memo to the Executive Council Sent to Attorney General for clearance and to National Assembly for Approval
Compendium existing legislation and strict penalties prepared and printing of track.		Achieved	Wildlife crimes, offences and penalties were extracted from the approved Act Printing and distribution of wildlife offences, penalties, fees to relevant agencies and exit point on track (by April, 2018)
National level enforcement action and inter-agency collaboration			
Inter-Ministerial/Agencies cooperation towards the control of illegal trade in ivories and Presentation of NIAP to potential stakeholders and ensure their participation in the TOR agreed between Agencies involved in NIAP implementation	Pictorial	Achieved	Meeting with Federal States and other stakeholders to discuss and identified the challenges in their wildlife legislation and modus operandi on how to handle illegal wildlife trade held on 13 th -14 th April, 2017. Meeting held on the confiscated items and how the counting of the items will be counted with relevant agencies i.e Federal Department of Forestry, NESREA,NPs Custom, Police and documented held 2017 Meeting on National Ivory Action Plan (NIAPs) held in Department of Forestry conference hall where Custom, Interpol,NPs NESREA, Quarantine Services from Ministry of Agriculture and Rural Development, National parks Nigeria Conservation Foundation(NCF) participated. Meeting on NIAPs was held twice last year (April & October 2017) and latest one on 11 th of January, 2018 discussing on the progress report of the plan.
Workshops/ training organized with the Ministry of justice, Interpol, NESREA, Nigeria Quarantine Services National Parks to develop recommendations on wildlife law and how to apply the law and Implementation of the	Pictorial	Achieved	Workshop/training session organized with the Ministry of Justices, Custom and Police to develop recommendation on wildlife law, how to apply the law and trained personnel on enforcement targeting on wildlife crime. Local training on simple identification of specimen (Morphological features). Meeting/workshop organized by Wildlife Conservation Society in collaboration with Federal Ministry of Environment on Combating Illegal Wildlife Trade and Sensitization on Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) held on 22 nd March, 2018

<p>workshop recommendations (for example specialized prosecutors appointed in each of the Federal State and Legislation training session organized for judiciary, police in different enforcement institutions and trained personnel on enforcement targeting on wildlife crime and the understanding of the fines.</p>			<p>at Reiz Continental Hotel Abuja. All relevant stakeholders were present.</p> <p>A workshop/ training was organized between Force Criminal Intelligence and Investigation Department (FCIID) and the Federal Ministry Environment, Department of Forestry held in Forestry Conference hall on 23th July, 2018 with the aim of enlightening issues on wildlife crime illegal transit of wildlife specimen especially elephant ivories in relation to Nigeria borders were discuss extensively and the way forward to tightened borders since it was confirmed Nigeria was only been used as transit route.</p> <p>Meeting with the CITES Technical Mission to Nigeria on 29th may to ist June, 2018 where the Honourable Minister was present at the occasion. Different relevant stakeholders participated different ideas was shared on illegal wildlife trafficking and ways it can be tackled.</p>
<p>Supply chains to domestic markets broken through targeted law enforcement action and large scale operation to close down illegal ivory trafficking at Lekki market and Intelligence gathered to better understand supply chains to the domestic markets, developed intelligence and investigation procedure, setup a network between all agencies to share intelligence on trafficking also Identified and recommendation of Uniform for NESREA staff</p>	<p>Meeting held with Lagos State Government on the modus operandi to carry out the activities</p>	<p>On track</p>	<p>Federal government is working on the modus operandi to effect the close down of Lekki Ivory Market</p> <p>Meeting held with the Director of Forestry, Lagos State on August 2017 on the modus operandi to stop illegal ivory trade/trafficking.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • Effort to crack down illegal trafficking at the markets and hotels. • Ensuring Inter-agency cooperation and States government towards effective control of illegal ivory trade • Capacity building • Organize awareness raising meeting with leaders of market with ivory products on sale • Total close down of the ivory market.
<p>Increase levels of wildlife</p>	<p>Memo raised</p>	<p>On track</p>	<p>Federal Department of Forestry staff at Apapa and Tincan, Lagos and Onne in Port-</p>

staff three (3) in exit points and borders	to the effect		Harcout for intelligent identification and thorough inspection of items at the exit point. By April, 2018 they will be at the International Airport with the Custom and also at land borders.
Provision of equipment for identification of ivory and wildlife specimen on Nigeria borders which include Chad Border, Republic of Benin border, Cameroon border and Niger border. Staff trained on the use of the equipment for effective identification of wildlife specimen.		Achieved	Provision of equipment for identification of specimen using simple equipment e.g Hand lens. The use of hand lens to different wildlife specimen example semi-process ivory, horns and fully processed ivory with their different shredded lines as an indicator
Establishment of forensic laboratory to use its capacity for wildlife crime investigation and forensic expert hired		Not commenced	Insufficient capacity building
Increase levels of detection of illegal/ wildlife specimen and coordination committee meets once every 6 months to evaluate progress in implementation.		Substantially Achieved	Meetings with all relevant agencies once every six (6) months especially on detection of illegal/wildlife specimen to discuss on the implementation, how to improve on it and foster collaboration.
National Parks collaboration with CITES MA and local communities on mitigation strategy for reducing human and elephant conflict and other wildlife specimen.		Achieved	Quarterly progress report sent via email to CITES MA on the activities in Yankari Game Reserve where WCS is the coordinator.
		Achieved	
International and Regional Enforcement Collaboration			
Meeting with agencies of neighboring countries especially Cameroon to discuss improving wildlife		On Track	Trans-boundary Biosphere working group meeting held in Obudu, Cross-River, Nigeria, May 14, 2017 where Cameroon, German Cooperation Representative, United Nations Educational, Scientific and Cultural Organization (UNESCO).

<p>crime enforcement at common border and develop recommendations.</p>			<p>Trans-boundary Biosphere in Cameroon, Yaoude, 2-3rd November, 2016 to support the management of National Biosphere Reserve for effective Bio-diversity Conservation which the forest elephant will be part to be conserve and protect in Cross River National Park where CITES MA, was in attendance.</p> <p>Meeting sponsored by West Africa Bio-diversity and Climate Change (WA BICC) on Developing a coordinated response to wildlife trafficking (Ivories and other wildlife specimen) in West Africa held from 2nd to 4th of July, 2018 in Abuja Nigeria. Participants from WABICC/USAID, ECOWAS Commission, IUCN, Traffic and CITES Management Authority from Burkina Faso, Cape Verde, Ivory Coast, Ghana, Gambia, Guinea, Guinea bissau, Liberia, Mali, Mauritania, Niger, Benin Republic, Nigeria , Senegal , Sierra Leone Toga and the US Embassy</p>
<p>Regional meeting organized in cooperation with neighboring countries to discuss the discrepancies between the different wildlife legislations and to develop recommendation.</p>			<p>Collaborative Action Planning (CAP) workshop organized by TRAFFIC conjunction with the CITES Secretariat and with a funding provided by the Wild-TRAPS Project on 18th and 19th November in Kinshasa-DRC where Nigeria was invited.</p> <p>The workshop was to improve the management and conservation of African Elephant through the reduction of poaching and illegal ivory trade through the effective implementation of the NIAPs at the country level and through strengthened inter-country collaboration.</p> <p>Unfortunately, the delegates from Nigeria were unable to attend the workshop due to difficulties in obtaining visas. However, Nigeria submitted a document to assist with the development of their NIAP and the outcome of the meeting was sent to Nigeria.</p>
<p>Outreach, Public Awareness and Education</p>			
<p>Awareness raising activities on anti-poaching, illegal trade in ivories restoration of the Eco system for sustainable development among House of Assembly parliament and ensure participation of local communities around key elephant sites.</p>		<p>Achieved</p>	<p>The Honourable Minister of Environment provided information to the House of Assembly parliament on CITES and Endangered Species and illegal implication, especially of illegal trade on 14th December, 2016, in the dare need to restore sanity in forest governance, especially with respect to wood export and Endangered species</p> <p>A two Day Interactive workshop for sensitization and Awareness Creation on illegal wildlife specimen (Ivories) and CITES Implementation in Nigeria held on Friday 23th -24th February, 2018 in lagos.</p>

Train of 15 staff each of relevant agencies in wildlife investigation and the use of intelligence and investigation procedure.		On track	The CITES MA met with Traffic on 25-9-2017 in lagos, hope to train trainers/ workshop to be organized targeting the representative of the relevant stakeholders to be NESREA, Customs, Interpol lead by CITES MA and NCF.
Printing of flyers and distribution to the passengers, airlines and customs.	Printed copy attached	Achieved	Printing of flyers achieved and distributions at all exit points is on going.
Electronic bill board display of illegal wildlife species at the major exit point	Bill board budget approved ANNEX XLIII	On-track	The budget for electronic bill board display was approved and by April it will be positioned at the strategic spot of the exit point. Roll on banners are displayed instead of Electronic bill boards at the Airport and Sea port but by December 2018, Electronic bill board will be stationed at the airport and sea port.
REPORTING			
Inventory of stocks of ivory seized date of the items were confiscated, sources of the ivory, culprit convicted, and comprehensive list of stocks of ivory held in NESREA , other agencies and government service was updated	Summary attached in Annex A	Achieved	Inventory of stocks headed by the CITES MA , NESREA, Customs, Interpol and Police.
Regular report to (Elephant Trade Information System (ETIS)	Summary attached in Annex A	Achieved	Seizures of ivories is been reported regularly to the CITES Secretariat through: 1.ETIS: ETIS forms were filled based on the seizures and send to Secretariat (Traffic) for documentation. 2.Eco-message: message were sent to INTERPOL through National Central Bureau (NCB)
Application of SMART on elephant priority site (Yankari Game Reserve and Cross River State) and	Pictorial illustration Attached Annex B XXXII to Annex B	Achieved	WSC managing Yankari Game Reserve through MIKE funding. Still on-going

Patrol Staff. (Law Enforcement Managers, Rangers, Staff at all sites properly trained and equipped for effective monitoring, self-esteem and protection) and use of intelligence and investigation procedure in Yankari Game Reserve, Cross-Rivers National Park, Okomu National Park, Edo State.	XXXVI		
Inventory made of the most significant domestic ivory markets and also hotels.	Master's project	Achieved	<p>Survey/inventory was conducted on wildlife/wildlife products lekki market selected as the case study.</p> <p>Questionnaire was administered to collect data on different species of ivories, sources and pictures of elephant ivory in the shops.</p> <p>The survey was carried Uzu Joshua Temiofe and Elizabeth Ehi-Ebewele, Part of the results was that majority of the buyers are Chinese.</p> <p>Market prices per ivory item data were also collected e.g human figurine (busts),125 Dollars and human figurine (virgin Mary) of length 18cm is 75 Dollars.</p> <p>It was discovered that the ivories were sold secretly in other to avoid arrest.</p> <p>The ivory tusks were traded in disguise as a souvenir like combs, Key holders, bangles and human figurines for easy patronage.</p>
All confiscated items with other agencies brought together for proper documentation		Achieved	<p>The exercise was carried out with CITE MA and other relevant stakeholders in attendance. Stock pile document. Trying to acquire warehouse to accommodate all stockpile.</p>
Anti-poaching strategy developed with all stakeholders on each of the priority site and Anti-poaching strategy implemented in other Game Reserves and SMART operational in other priority sites	ANNEX B XXXIII	Achieved	<p>Contacts and meetings held with local community's security forces on regular bases on intruders into elephant priority sites.</p> <p>Awareness creation between community stakeholders on fines/penalties that goes with illegal possession of wildlife and wildlife products most especially elephant ivory.</p> <p>Over 20 rangers in Yankari Game Reserve were well trained in CyberTracker monitoring program and Cross-River and Okomu National parks still on track.</p> <p>Elephant are highly protected in Nigeria. Hehs of Elephant discovered in Ondo state</p>

			and Kebbi state are safe, monitored and well protected
Carry out an audit of the NESREA storage facilities and other storage facilities used for ivory and the rescue facility for confiscated wildlife products is reinforced and well secured	ANNEX B XXX	Achieved	All date on seizure of ivory are centralized at FMENV. Recommendation: All confiscated ivories recommended for incineration to avoid ploughing back to the market (Still pending) .
Sufficient financial means and resources made available to provide capacity building and apply the lessons learned on the ground and training of rangers in SMART in other priority elephant sites (Yankari Game Reserve and Cross River National Park).	ANNEX XXXII	Achieved	Patrol Staff. (Law Enforcement Managers, Rangers, Staff at all sites were properly trained on effective patrol within the elephant priority site. Over 50 personal were employed and equipped for effective monitoring and protection) in Yankari Game Reserve, Cross-Rivers National Park, Okomu National Park, Edo. A total of 48 camping patrols were completed by rangers during the period covering a total distance of 5,272 km; and 37 people were arrested for various offences (23 poachers, seven grazers, and five others for collecting firewood).
List of Priority site established		Achieved	List of priority elephant site were established and secured. 24 hours monitoring by anti- poachers on illegal poachers . Shifting of duties by the rangers for effective monitoring of the priority elephant sites. Camouflage uniforms for the rangers and operation signs on patrol were recommended for effective monitoring
Patrol coverage protected areas increased and improved intelligence gathering and data base management on potentially illegal activities	ANNEX B XXXIV	Substantially Achieved	24 hours monitoring by anti- poachers on illegal poachers . Shifting of duties by the rangers for effective monitoring of the priority elephant sites. Camouflage uniforms for the rangers and operation signs on patrol were recommended for effective monitoring
Anti-poaching strategy implemented in Yankari	ANNEX B XXXIII	Achieved	24 hours monitoring by anti- poachers on illegal poachers . Shifting of duties by the rangers for effective monitoring of the priority elephant sites.

Game Reserve, Cross-Rivers National Park, Okomu National Park, Edo State.			Camouflage uniforms for the rangers and operation signs on patrol were recommended for effective monitoring
Modern equipment for patrol and management supplied in Yankari Game Reserve and other priority sites.	ANNEX B XXXIII	Achieved	Implement the new SMART software at the end of 2015

ANNEX A

REPORTING INDICATORS?

TOTAL UPDATE OF SEIZED AND CONFISCATED CITES ITEMS FROM MARCH 2010

S/N	Date of seizure / Name of Trafficker	Date Received	Place of Seizure	Type of Specimen (Quantity/Weight)		Total Quantity / Weight (kg)
				Elephant Products (Tusks and Ivory)	Others	
1.	3 rd March, 2010 (Bashir S. Umar)	3 rd March, 2010	Transcorp Shop A Hilton Abuja	Worked - 170pcs /3.1kg Semi-worked - 6pcs/5.4kg	Crocodile skin bags- 10pcs/2.2kg	186pcs/8.5kg
2.	3 rd March, 2010 (D Ahmed)	3 rd March, 2010	Transcorp Hilton Shop B Abuja	Worked- 36pcs/3.1kg	Pangolin skin wallet and Monitor Lizard skin bag- 2pcs/0.8kg	38pcs/3.9kg
3.	3 rd March, 2010 (Hut 13)	3 rd March, 2010	Transcorp Hilton Shop C Abuja	—	Cheetah skin, and Crocodile Skin -3pcs/1.4kg	3pcs/1.4kg
4.	3 rd March, 2010 (Soka Graft	3 rd March, 2010	Art & Craft Shop A Village	Worked - 46pcs/1.6kg	—	46pcs/1.6kg

			Abuja			
5.	3 rd March, 2010 (Peter Obinnadike)	3 rd March, 2010	Art & Craft Shop B Abuja	Worked - 77pcs/7.1kg Semi-worked - 5pcs/2.0kg	-	82pcs/9.1kg

INVENTORY OF SEZIED CITES SPECIMEN FROM INCEPTION 2011- AUGUST 2018.

S/N	NAME OF SUSPECT	SUSPECT COUNTRY OF ORIGIN	DATE OF APPREHENSION	LOCATION OF APPREHENSION	TYPE OF TRADE	TYPE OF CITES SPECIMEN	DESCRIP.	QUANTITY (NO)	WEIGHT (KG)	PROSECUTION	LEGAL STATUS
1	Mr. Toure Mahamadou	Mali	12 th March 2011	MMIA, IKEJA	Export	Worked ivory	Elephant Tusks	51			Not taken to court
2	Mr. Xu Dong	China	27 th May 2011	MMIA, IKEJA	Export	Worked ivory	Elephant Tusk	4	8.2kg		Not taken to court
3	Mr. Yang Haichun	China	23 rd June 2011	MMIA, IKEJA	Export	Worked Ivory	Elephant Tusk Rings	30 52	53 2.465		Not taken to court
4	Mr. Liang Yongbin	China	1 st July 2011	MMIA, IKEJA	Export	Worked Ivory Animal parts	Rings Stamps Bones Dried pangolin	2 2 18 1			Not taken to court
5	Mr. Wang	China	6 th July,	MMIA, IKEJA	Export	Worked Ivory	Elephant Tusk	2	4kg		Not taken to Court

	Hong Gang		2011								
6	Mr. Yang Long	China	26 th July 2011	MMIA, IKEJA	Export	Worked Ivory	Elephant Tusks	16	39kg		Not taken to court
7	Abandoned		29 th August 2011	MM Intl Airport	Export	Elephant tusk	Raw tusk	51	141.60	Nil	Nil
							Processed ivory	52	83.15		
							Semi processed Bangles and Stamp	50	6.95		
							Processed Bangled	54	2.70		
8	Abandoned	Cote 'D Voire	23 rd Sept. 2011	SEME BORDER	Export	Raw Ivory	Elephant tusk	9	64.19	NIL	Nil
9	Mr Song yu	China	28 th Nov. 2013	MMIA, IKEJA	Export	Worked ivory	Smooth bangles	4	2.5	Prosecuted at the federal High Court, Lagos, for attempting to export out of Nigeria specimen of worked ivory	opted for administrative punitive fine of five million
10	Miss Zuli Liang	China	5 th May 2012	MMIA, IKEJA	Export	Worked ivory	Smooth bangles	6		Prosecuted at the federal High Court, Lagos, for attempting to export	Convicted and sentenced to 6 months imprisonment with one hundred thousand option of fine.

										products of worked ivory out of Nigeria.	
11	Mr. Johnson Monday	China	8 th May, 2013	MMIA, IKEJA	Export	Worked ivory	1. Smooth round 27angle 2. Beaded 27angle	49 8	5.4	Prosecuted at the federal High Court, Lagos, for attempting to export products of worked ivory out of Nigeria.	Convicted and sentenced to 6 months imprisonment with one hundred thousand option of fine.
12	Mr. Diarra Fousseyeni	Mali	8 th May, 2013	MMIA, IKEJA	Export	Worked ivory	1. Cut 27angle 2. Round bangles	61 29		Prosecuted at the federal High Court, Lagos, for attempting to export products of worked ivory out of Nigeria.	Convicted and sentenced to 6 months imprisonment with one hundred thousand option of fine.
13	Mr. Mamoudou Diakite	Mali	20 th June, 2013	MMIA, IKEJA	Import	Worked ivory	Tusks bangles	17	38kg	Matter pending at the Federal High Court, Lagos	Pending
14	Mr. Yacouba Sidime	Guinea	28 th June, 2013	MMIA, IKEJA	Import	Worked ivory	Bangles and chop sticks	360	120kg	Matter pending at the Federal High Court, Lagos	Pending
15	Mr. Kaba	Guinea	28 th June,	MMIA,	Import	Worked	Tusks and	443	96kg	Matter	Pending

	Abubaka		2013	IKEJA		ivory	bangles			pending at the Federal High Court, Lagos	
16	Mr. Camara Souleymane	Guinea	3 rd August, 2013	MMIA, IKEJA	Import	Semi Worked ivory	1. Chop sticks 2. Bangles 3. Beads 4. Stamp 5. tusks	114 100 21 15 30	53.55 kg	Nil	Nil
17	Abandoned (yellow polythene bag), discovered		10 th June, 2014	MMIA, IKEJA	Export	Processed chopsticks	114pcs/2.65kg semi processed ivory 18pcs/46.10kg semi-processed- 110pcs/7.25kg		232pcs /56kg	Nil	Nil
18	Abandoned (Yellow polythene bag), discovered		10 th June, 2014	MMIA, IKEJA	Export	Semi processed stamp- 15pcs/1.85kg, processed Rosaries- 6pcs/o.30kg and beaded round Bangles- 15pcs/1.00kg			36pcs/ 3.15kg	Nil	Nil
19	Abandoned (orange lemon bag)		August, 2014	MMIA, IKEJA	Export	Semi processed Ivory-11 Pcs/27.65k			203pcs /68.65 kg	Nil	Nil

	discovered					g semi processed round bangles- 192/41.00k g					
20	Abandoned (black pink bag)		10 th June, 2014	MMIA, IKEJA		Bundles of semi processed chopsticks- 360pcs/8.9 0kg semi processed round bangles- 252pcs/53. 35kg			612pcs /62.25 kg	Nil	Nil
21	Abandoned (1 bag)		6 th September, 2014	MMIA, IKEJA		Semi processed Tusks - 5pcs/13.4 0kg			5pcs/1 3.4kg	Nil	Nil
22	Abandoned (2 bags) discovered		6 th September, 2014	MMIA, IKEJA		Pairs of wrapped Semi processed Ivory - 10pcs/18. 45kg Bundles of wrapped semi processed bangles -			54pcs /28.5 0kg	Nil	Nil

						44pcs/10.05kg					
23	Abandoned (4 bags)		) 6 th September, 2014	MMIA, IKEJA		Wrapped semi processed round cut ivory - 28pcs/1.75kg Wrapped semi processed Stamps - 34pcs/1.45kg Wrapped semi processed bangles - 44pcs/13.00kg Wrapped semi processed Ivory 4pcs/8.70kg			110pcs /24.9kg	Nil	Nil
24	Abandoned (3 bags) 6 th September, 2014		6 th September, 2014	MMIA, IKEJA		Semi processed Ivory - 13pcs/49.45kg Wrapped semi			15pcs/50.85kg	Nil	Nil

						processed Ivory - 1pcs/0.70 kg Processed beaded rosary - 1pcs/0.70 kg					
25	Abandoned wild life materials discovered		6 th September, 2014	MMIA, IKEJA		Raw Elephant Tusks 51pcs/78.50kg	Buffalo Horn - 01pcs/67.20 kg		152pcs/145.70kg	Nil	Nil
26	Abandoned materials discovered		6 th September, 2014	MMIA, IKEJA		Raw Elephant Tusks - 9pcs/11.65kg	Buffalo Horn - 17pcs/8.85kg		26pcs/20.50kg	Nil	Nil
27	Abandoned wildlife materials discovered		6 th September, 2014	MMIA, IKEJA	Export	Raw Elephant Tusks - 14pcs/31.55kg	Buffalo Horn - 26pcs/16.70 kg		40pcs/48.25kg	Nil	Nil
28	Wu Banoming,	China	12 th January 2016	MMIA, IKEJA	Export	Illegal importation of wildlife products				Charged before the Federal High Court, Lagos	Matter is pending in Court
29	Not disclosed by the	China	13 th February,	Apartment in		Raw Pangolin	Pangolin scales		2,001kg	NIL	NIL

	Custom Authority		2018	Okpebi, Lagos		scales					
30	Not disclose by the Custom Authority	China	13 th February, 2018	Apartment in Okpebi, Lagos		Raw Elephant Tusks	Pangolin scales		343kg	NIL	NIL
31	Abandoned wildlife materials discovered	China	8 th March, 2018	Apapa	Export	Raw Pangolin scale	Pangolin scale	329 sacks	8.492 kg	NIL	NIL

ANNEX B (PICTORIAL ILLUSTRATIONS)



ANNEX XXXVIII: Stakeholders discussing on developing a coordinated response to wildlife trafficking (Ivories and other wildlife specimen)



ANNEX XXXVIII: Participants from WABICC/USAID, ECOWAS Commission, IUCN, Traffic and CITES Management Authority from Burkina Faso, Cape Verde, Ivory Coast, Ghana, Gambia, Guinea, Guinea bissau, Liberia, Mali, Mauritania, Niger, Benin Republic, Nigeria , Senegal , Sierra Leone Toga and the US Embassy



ANNEX XXXIX: Pictures showing a group photograph of workshop organised by Wildlife Conservation Society (WCS) in collaboration with Federal Ministry of Environment on combating illegal wildlife trade and sensitization on CITES where the Permanent Secretary from Federal Ministry of Environment Shehu Ahmed (center) is the chairman of the occasion, Andrew Dunne from Wildlife Conservation Society as the Country coordination and other representatives from relevant agencies.



ANNEX XL: Pictures showing presentation of Nigeria CITES Focal Point , Dr. (Mrs) Ehi-Ebewele Elizabeth from Fedeal Deaprtment of Forestry, Federal Deaprtment of Forestry on combating illegal wildlife trade and sensitization on CITES



ANNEX XLI: Picture showing presentation by Pauline Blu from Force Criminal Intelligence and Investigation Department on Wildlife crime illegal transit of wildlife specimen where the Director of Forestry (Mr. Andrew Davide Adejo is the host.



ANNEX XLII: Pictures showing a seminar presentation by Nigeria CITES Focal Point on wildlife crime in lagos, Nigeria



Annex XLIII: Picture showing the Minister of Environment in the interactive workshop for sensitizing and awareness creation on illegal wildlife exporting.



Annex XLIV: Picture showing A two Day interactive workshop for sensitizing and awareness creation on illegal wildlife exporting.



**FEDERAL MINISTRY OF ENVIRONMENT
FEDERAL DEPARTMENT OF FORESTRY**

**DO YOU WANT TO TAKE ANY WILDLIFE SPECIES OF ANIMAL
AND PLANT OUT OF NIGERIA FOR EXPORT OR RESEARCH PURPOSES?**

THEN YOU NEED A CITES PERMIT

(A) What is CITES?

CITES: Convention on International Trade in Endangered Species of Wild Fauna (Animals) and Flora (Plants). Export /Import of Wild Animals and Plants are regulated by this Convention and the National Wildlife Species Protection: the Endangered Species (Control of International Trade and Traffic) Amendment Act 2016.

(B) Why CITES Permit?

CITES PERMIT is very crucial in ensuring sustainable use of Wild Animals and Plants. It is the internationally recognized LEGAL DOCUMENT for all export/import transactions on CITES LISTED WILD ANIMALS and PLANTS. Only Animals and Plants on CITES Schedule/Appendix II and III are permitted for Export with various regulations. Animals and Plants on Schedule/Appendix I are PROHIBITED for Export.

**(C) GUIDELINES / PROCEDURES FOR
OBTAINING CITES PERMIT**

- i. Applicant should submit application letter addressed to the Honourable Minister, Federal Ministry of Environment, Abuja. (Attention: Director of Forestry);
- ii. Indicate the Animal and Plant species to be exported or imported or to Conduct Research on;
- iii. Application letter: stating the name, source and purpose;
- iv. Evidence of Introduction letter from the Research Institute or Job Order from the Organization concerned as appropriate;
- v. Permit issued by the State where the Animal/Plant/Product is sourced or acquired;
- vi. Evidence of Payment to Government Treasury Single Account with payments receipts obtained from Department of Finance and Account, Federal Ministry of Environment;
- vii. In-situ evaluation (on-the-spot) report or Letter of Support for wood Export; and
- viii. Pre-shipment Inspection Certificate for wood and allied products Export.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Federal Department of Forestry,
Federal Ministry of Environment, Plot 393/394 Augustus Aikhomu Way,
Utako District, Abuja.
E-mail: fedfordirector@environment.gov.ng, Website: www.environment.gov.ng
Tel: +234 (0) 802 312 0106

*Signed
Management*

Annex XLIII: Picture showing roll on banners at the Airport and Sea port Lagos and Portharcourt as a means of awareness creation.

ANNEX B



ANNEX B I: pictures showing a group photograph of inter-agencies collaboration meeting where the Director of Forestry Mr T.M Osakuade (Center) hosted the inter Ministerial Agency and in attendance were the Nigeria CITES Focal Point (Dr. (Mrs)Ehi-Ebewele Elizabeth), Custom (DC, Swomen, H.J.-Deputy Comptroller), NESREA(Kolawole Gbenga), NPS (Jonah C. Moses), Quarantines Service (Dr. Davidson Esemeje), NCF(Mohammed Garba Boyi), Interpol representative (DSP Lanre Bankole and DSP Momo Agada) and staff of the Ministry of Environment.



ANNEX B II: Dr.(Mrs) Ehi-Ebewele Elizabeth, giving a presentation on NIAPs progress report



ANNEX B III: NESREA: Mr Kolawole Gbenga from NESREA giving a presentation on the enforcement report on NIAPs



ANNEX B IV: Representative of the National Park Service stating the challenges its officers face in combating elephant poaching.



ANNEX B V: Representative of the NCS, DCS Swomen, H.J discussing about the operation of the scanning machines at the ports.



ANNEX B VI: Joint Enforcement carried out by the Inter-Agency Committee in Ivory Market Abuja.



ANNEX B VII: Customs bringing out the seized Elephant Tusks and other animal parts to be handed over to NESREA at the Murtala International Airport, Lagos.



Annex B VIII: Officers opening the Golf kit bag where the endangered animal parts were Concealed by illegal traders seized at the Murtalat International Airport, Lagos.



ANNEX B IX: The seized animal parts being displayed by Customs for NESREA to cross check before handing over.



ANNEX B X: Seized Elephant tusks ready for taking over from the Customs



ANNEX B XI: Deputy Comptroller, Mr Akojubi Handing over Seized elephant tusks to State Co-ordinator NESREA Lagos field office



ANNEX B XII: Seized Dried Crocodile skin on display



ANNEX B XIII: Seized Souvenirs made of Crocodile skin on Displayed bags being displayed



ANNEX B XV: Seized CITES items on Display for Record purposes



ANNEX B XVI: Weighing of the Seized Items for record purposes by NESREA.



ANNEX B XVII: Seized Elephant Tusks and Ivories on Display for Record Purpose before Stocking is done



ANNEX B XVIII: Seized Ivory Bracelet



ANNEX B XIX: Some seized ivories



ANNEX B XX: Counting of Tusks for stockings



ANNEX B XXI: Hand-over of seized 43 pieces of elephant tusks at the Nigeria Customs Service Headquarters, Abuja on the 17th December, 2015



ANNEX B XXII: Displaying of Seized Ivories concealed in a Jacket at Nnamdi Azikwe Intn'l Airport Abuja



ANNEX B XXIII: Confirmation of the seized items by the representatives of both organizations at Nnamdi Azikwe Intn'l Airport Abuja (02/02/2015) Ivory concealed in a jacket by a Chinese and worn.



ANNEX B XXIV: Seized Items being sorted for proper arrangement in the store



ANNEX B XXV: Labelled worked Ivories in the store



Samples of Listed Items Under CITES Control

ANNEX B XXVI: Joint Enforcement carried out by the Inter-Agency Committee on CITES in 20



ANNEX B XXVII: Chinese national illegally exporting CITES items through Murtala Mohammed Int'l. Air Port Lagos arrested and prosecuted.



ANNEX B XXVIII: Some Confiscated / Seized CITES Items under the Custody of NESREA



Sensitization Programme at Kwali Area Council over the killing of Hippopotamus



ANNEX B XXIX. Sensitization programme at Kwali Area Council over the killing wildlife specimen

NESREA's RECORD ON SEIZURES (II)



Figure 1
ANNEX B XXX: Director (NESREA), Nigeria CITES Focal Point (FMEnv) and Wildlife Law Enforcement Consultant taking stock of the Ivory during surveillance exercise in Nigeria, (June 2017)

SPECIMEN IN THEIR FORMS; SHAPES AND TYPES



ANNEX B XXXI Different use of Ivory



ANNEX B XXXII: Photo showing learning camera trapping techniques in Yankari Game Reserve with senior ranger Jonah Umar.



ANNEX B XXXIII: Photo showing Two brand new 4X4 Toyota Hilux vehicles supplied by WCS to support conservation and protection of Yankari Game Reserve



ANNEX B XXXIV: Photo showing Six grazers who attacked rangers around Rimi area in police custody, July 2015 in Yankari Game Reserve.



ANNEX B XXXV: Photo showing Elephant herd, July 2015 in Yankari Game Reserve



ANNEX B XXXVI: Photo showing Abdullahi Ibrahim was arrested around Faliyaram area, July 2015 in Yankari Game Reserve



ANNEX B XXXVII: Photo showing ivory items (fish keyholder and cigarette holders) of different shapes in lekki market



ANNEX B XXXVII: Photo showing ivory Oryx (Oryx species) in lekki market

THE NATIONAL WILDLIFE SPECIES PROTECTION ACT
THE ENDANGERED SPECIES (CONTROL OF INTERNATIONAL TRADE AND TRAFFIC)
AMENDMENT ACT 2015

ARRANGEMENT OF SECTIONS

Section

- 1. Prohibition of hunting or trading in wild animals and plants**
- 2. Regulation of export, re-export, import and introduction from the sea of species specified in the Schedules**
- 3. Permits and Certificates**
- 4. Alteration of Schedules and Exemptions**
- 5. Penalties, forfeitures, etc.**
- 6. Records**
- 7. Management and Scientific Authorities**
- 8. Power to make regulations**
- 9. Interpretation**
- 10. Citation**

SCHEDULES

First Schedule

Animals and plants in relation to which international trade is prohibited except in exceptional circumstances

Second Schedule

Animals and plants in relation to which international trade may be conducted only under license

Third Schedule

Animals and plants in relation to which international trade requires the prior issuance of a certificate of origin

THE NATIONAL WILDLIFE SPECIES PROTECTION ACT
THE ENDANGERED SPECIES (CONTROL OF INTERNATIONAL TRADE AND TRAFFIC)
AMENDMENT ACT 2015

An Act to provide for the conservation and management of Nigeria's wildlife and the protection of some of her species in danger of extinction as a result of overexploitation or habitat change as required under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Migratory Species of Wild Animals (CMS) and its daughter Agreements and protocols, and the Convention on Biological Diversity (CBD) to which Nigeria is a signatory.

1. PROHIBITION OF HUNTING AND TRADING IN WILDLIFE (WILD ANIMALS AND PLANTS)

- (1) As from the commencement of this Act, the hunting or capture of or trade in the animal and plant species specified in the First Schedule to this Act (being wild animal and plant species that are endemic to Nigeria or otherwise considered to be threatened with extinction) is prohibited. Trade in specimens of these species may be conducted under exceptional circumstances.

[First Schedule]

- (2) As from the commencement of this Act, no person shall hunt or capture, trade or otherwise deal in the animal and plant species specified in the Second Schedule to this Act (being wild animal and plant species which though not necessarily now threatened with extinction may become so threatened unless trade in respect of such species is controlled) except he is in possession of a licence issued under this Act.

[Second Schedule]

- (3) As from the commencement of this Act, no person shall conduct international trade in the animal and plant species specified in the Third Schedule to this Act (being wild animal and plant species which are not listed in the First and Second Schedules) except he is in possession of a certificate of origin issued under this Act

[Third Schedule]

2. REGULATION OF TRADE IN THE SPECIES SPECIFIED IN THE SCHEDULES

- (1) **All specimens of species naturally occurring within the geographical boundaries and territorial waters of Nigeria, including their parts (or trophies) and products thereof (or derivatives) are for the purposes of this Act, its natural heritage.**

- (2) **No natural heritage of Nigeria shall be considered as personal or household effect unless it is legally acquired and Management Authority of Nigeria is satisfied that the specimen was obtained from not earlier than the second filial generation of a captive-bred population of registered captive breeding facility.**

- (3) **All trade in specimens of species included in the First Schedule of this Act shall be subject to regulations as follows:**

- (a) **The hunting, capture, trafficking or otherwise dealing in any specimen of species included in the First Schedule is hereby prohibited. In exceptional circumstances, the Management Authority of Nigeria may issue appropriate and valid permit or certificate for trade in these species.**

- (b) **The export of any specimen of species included in the First Schedule shall require an export permit. An export permit shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:**

- (i) **The specimen was not obtained in contravention of any of the laws for the protection of fauna and flora of any State of the Federal Republic of Nigeria from where the specimen was acquired;**

- (ii) **The specimen is not to be used primarily for commercial purposes;**

- (iii) **Living specimens will be prepared and shipped to conform to extant provisions of the Convention and to minimise the risk of injury, damage to health or cruel treatment; and**

- (iv) Such export will not be detrimental to the survival of the species and is within the limit of the export quota determined for the country for the period.
- (c) The import of any specimen of a species included in the First Schedule into Nigeria shall require an import permit. An import permit shall be granted only when an export permit or re-export certificate has been issued by the country of export and or re-export; and Management Authority of Nigeria is satisfied that the following conditions have been met:
 - (i) The import will be for purposes, which are not detrimental to the survival of the species;
 - (ii) The recipient of a living specimen is suitably equipped to house and care for it;
 - (iii) The specimen is not in its living form an invasive or parasitic species;
 - (iv) The relevant authority of the country of export or re-export has issued a certificate of good health for the specimen; and
- (d) The re-export of any specimen of a species included in the First Schedule shall require a re-export certificate. A re-export certificate shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:
 - (i) The specimen was imported into the country in accordance with extant provisions of the Convention on International Trade in Endangered Species of wild Fauna and Flora (CITES) and this Act;
 - (ii) Any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment; and
 - (iii) An import permit has been granted for the specimen.
- (e) The introduction from the sea of any specimen of a species included in the First Schedule shall require a certificate from the Management Authority of Nigeria. A certificate shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:
 - (i) The relevant Scientific Authority of Nigeria has advised that the introduction will not be detrimental to the survival of the species;
 - (ii) The proposed recipient of a living specimen is suitably equipped to house and care for it;
 - (iii) The specimen is not in its living form an invasive or parasitic species; and
- (f) Appropriate fees have been paid to the Federal Government of Nigeria
- (4) All trade in specimens of species included in the Second Schedule of this Act shall be subject to regulations as follows:
 - (a) The export of specimens of species included in the Second Schedule of this Act shall require an export permit. An export permit shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:

- (i) The specimen was not obtained in contravention of any of the laws for the protection of fauna and flora of any State of the Federal Republic of Nigeria from where the specimen was acquired;
 - (ii) Such export will not be detrimental to the survival of the species and is within the limit of the export quota determined for the country for the period;
 - (v) Living specimens will be prepared and shipped to conform to extant provisions of the Convention and to minimise the risk of injury, damage to health, cruel treatment or death thereto;
 - (vi) The prescribed fees have been paid to the Federal Government of Nigeria;
 - (vii) A certificate of good health for the specimen has been issued by a competent authority prior to the exportation;
- (b) No person shall import any specimen of a species specified in the Second Schedule except an import permit for the species has been issued by the Management Authority of Nigeria.
 - (c) An import permit shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:
 - (i) an export permit or re-export certificate has been issued by the country of export and or re-export;
 - (ii) The specimen is not in its living form an invasive or parasitic species;
 - (iii) the competent authority of the country of export or re-export has issued a certificate of good health for the specimen;
 - (iv) The import will be for purposes, which are not detrimental to the survival of the species; and
 - (v) The proposed recipient of a living specimen is suitably equipped to house and care for it.
 - (d) The re-export of any specimen of a species included in the Second Schedule shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:
 - (i) The specimen was imported into the country in accordance with extant provisions of CITES and this Act;
 - (ii) Any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment or death thereto.
 - (e) The introduction from the sea of any specimen of a species included in the Second Schedule shall require the prior grant of a certificate from the Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

- (j) The relevant Scientific Authority of Nigeria has advised that the introduction will not be detrimental to the survival of the species involved; and**
- (iii) Living specimens will be prepared and shipped to conform to extant provisions of the Convention and to minimise the risk of injury, damage to health, cruel treatment or death thereto;**
- (f) Notwithstanding the nature of trade under this section of this Act, prescribed fees for the transaction shall be paid to the Federal Government of Nigeria.**
- (5) All trade in specimens of species included in the Third Schedule of this Act shall be subject to regulations as follows:**
 - (a) The export of any specimen of a species included in the Third Schedule shall require the prior grant and presentation of a certificate of origin. A certificate of origin shall only be granted when Management Authority of Nigeria is satisfied that the following conditions have been met:**
 - (i) the specimen was not obtained in contravention of the extant laws for the protection of fauna and flora of any State of the Federal Republic of Nigeria from where the specimen was acquired;**
 - (ii) Living specimens will be prepared and shipped to conform to extant provisions of the Convention and to minimise the risk of injury, damage to health, cruel treatment or death thereto;**
 - (iii) appropriate fees have been paid to the Federal Government of Nigeria; and**
 - (iv) A certificate of good health of the specimen has been issued by appropriate authority**
 - (b) The import of any specimen of a species included in the Third Schedule shall require the prior presentation of a certificate of origin and, where the import is from a State which has included the species in CITES Appendix III, an export permit.**
 - (c) In the case of re-export, a certificate granted by the Management Authority of the State of export that the specimen was processed in that State or is being re-exported shall be accepted by the Management Authority of Nigeria as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.**
 - (d) Notwithstanding the nature of trade under this section of the Act, appropriate fees shall be paid to the Federal Government of Nigeria.**

3. PERMITS AND CERTIFICATES

- (1) Permits and certificates granted under the provisions of Section 2(1), (2) and (3) shall be in accordance with the provisions of this Section:**
 - (a) An export or import permit, re-export certificate or certificate of origin shall remain valid for a period of six months from the date of issue or for such period the Management Authority of Nigeria may determine.**

- (b) Management Authority of Nigeria reserves the right to produce new designs of permits or certificates at any time, provided the design conforms to the model prescribed under the Convention.**
- (c) Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except when such copies have been endorsed by the issuing Management Authority.**
- (d) The Enforcement Authority shall cancel and retain the export permit, re-export certificate or certificate of origin presented in respect of the importation of any specimen into Nigeria.**
- (e) A separate permit shall be required for each consignment of any specimen imported, exported or re-exported under this Act.**
- (f) Management Authority, where feasible, may affix a mark or seal on any specimen of wild fauna or flora for the purpose of identification of the specimen. Such mark or seal shall be designed in such a way as to render its imitation by unauthorised persons difficult or impossible**

4. ALTERATION OF SCHEDULES AND EXEMPTIONS

- (1) The provisions of sections 2 and 3 shall apply to the transit or trans-shipment of specimens through or in the territory of Nigeria even when the specimens remain in Customs control.**
- (2) The provisions of sections 2 and 3 shall not apply to specimens that are legally acquired personal or household effects. This exemption shall not apply where:**
 - (a) the acquisition of the parent or breeding stock of such specimens contravened the provisions of this Act; and**
 - (b) the specimen is a First Schedule species acquired outside the holder's State of usual residence in Nigeria.**
- (3) The provisions of sections 2 and 3 shall not apply where Management Authority of Nigeria is satisfied that:**
 - (a) the specimens were acquired before the commencement of the present Convention;**
 - (b) the specimens are to be used for Scientific studies or researches that contribute to knowledge and conservation of the species in the wild; and**
 - (c) the specimens are proven to be bred in captivity or artificially propagated.**
- (4) It shall be a defence to a charge under this Act that the killing, capture or fishing of any specimen specified under the First and Second Schedules to this Act was for any of the following reasons:**
 - (a) the paramount public interest;**
 - (b) the defence of human life;**
 - (c) the protection of public health;**

- (d) the defence of property; or
- (e) the defence of the lives of other animals.
- (5) Specimens of First Schedule animals bred in captivity for commercial purposes, or of plant species artificially propagated for commercial purposes, shall be treated as Second Schedule species.
- (6) Subject to the approval of the Management Authority of Nigeria, the provisions of sections 2 and 3 shall not apply to the following:
 - (a) Non-commercial loan, donation or exchange between scientists or scientific institutions registered by appropriate Management Authority; and
 - (b) herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material, which carry a label issued by an appropriate Management Authority; and
 - (c) a memorandum of understanding (MOU) and or a material transfer agreement (MTA) among all parties concerned in (5) (a) and (b) of this section shall be deposited with the Management Authority of Nigeria.
- (7) Management Authority of Nigeria may waive the requirements of sections 2 and 3 and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:
 - (a) the exporter or importer registers full details of such specimens with the Management Authority of Nigeria;
 - (b) Management Authority is satisfied that the specimens are either pre-Convention or captive-bred specimens; and
 - (c) Management Authority is satisfied that the specimens will be so transported and cared for as to minimise the risk of injury, damage to health, cruel treatment or death thereof.
- (8) Subject to advice by the Scientific Authorities, exercise of precaution or in an emergency the Management Authority of Nigeria may by an order published in the Federal Gazette:
 - (a) alter the list of animals and or plants specified in the First, Second and Third Schedules of this Act; and
 - (b) make different regulations in relation to different species, or trade in species and impose such conditions as may be necessary to ensure the survival of the species.
- 5. OFFENCES AND PENALTIES, FORFEITURES, FEES AND ADMINISTRATIVE CHARGES
 - (1) It shall be an offence under this Act for any person(s) to conduct international trade in specimens of endangered species of wild fauna and flora in violation of the present Convention and this Act.

- (2) Any person who, in contravention of the provisions of this Act, hunts, captures, possesses, trades or otherwise deals in a specimen of wild fauna and or flora without the appropriate permits shall be guilty of an offence and liable on conviction:
- (a) in respect of a specimen under the First Schedule, to a fine of five hundred thousand naira (N500,000) or five (5) years imprisonment or both such fine and imprisonment;
 - (b) in respect of a specimen under the Second Schedule, to a fine of three hundred thousand naira (N300,000) or three (3) years imprisonment or both such fine and imprisonment;
 - (c) in respect of a specimen under the Third Schedule, to a fine of one hundred and fifty thousand naira (N150,000) or eighteen (18) months imprisonment or both such fine and imprisonment;
- (3) Any person who, in contravention of the provisions of this Act engages in the use of fake, forged, inappropriate, expired or altered permit and or certificate for the conduct of trade shall be guilty of an offence and liable on conviction to:
- (a) a fine of two hundred and fifty thousand naira (N250,000) in respect of a first offence; and
 - (b) two (2) years imprisonment without the option of a fine in respect of a second or subsequent offence.
- (4) Any person who, in contravention of the provisions of this Act, aids, abets, conspires or partakes in the carrying out of illegal trade or smuggling of specimens of species of wild fauna and flora shall be guilty of an offence and liable on conviction to a fine of one hundred and fifty thousand naira (N150,000) or one (1) year imprisonment or both such fine and imprisonment.
- (5) Any Airline or Shipper, Cargo Handler or Courier service provider who, in contravention of the provisions of this Act, the International Air Transport Association Live Animal Regulations (IATA – LAR) or other relevant regulations or law, engages in freighting illegally acquired specimens of wild fauna and flora shall be guilty of an offence and liable on conviction to a fine not exceeding two million naira (N2,000,000).
- (6) Any person who, in contravention of the provisions of this Act, establishes or causes to be established or operates any zoological garden, menagerie, botanical garden, or any ex-situ or captive breeding facility or centre in Nigeria without the prior approval of the Management Authority shall be guilty of an offence and liable on conviction to a fine not exceeding one million naira (N1,000,000) or 10 years imprisonment or both such fine and imprisonment.
- (7) Where a person is convicted of an offence under the fore-going subsections of this section, the court may:
- (a) Order the forfeiture of any specimen that is the subject of such conviction;
 - (b) Order the forfeiture of any vehicle, vessel, weapon or instrument used in committing the offence; and
 - (c) Make such orders, including surcharging convicted person(s) and or organisation(s), the cost for the upkeep and or maintenance of live specimens of wild fauna and flora involved in the illegal shipment as the court may deem fit.

- (8) Without prejudice to the foregoing:
- (a) Where a living specimen is forfeited pursuant to section (7)(a), the specimen shall be entrusted to the Management Authority of Nigeria who may, after consultation with the country of origin return the specimens to the country of origin at that country's expense, or to a Rescue Centre or to such other place as the Management Authority may deem appropriate; and
 - (b) In the case of forfeiture, the Management Authority may obtain the advice of a Scientific Authority, or consult the Secretariat of the Convention in order to facilitate a decision including the choice of a rescue centre.
- (9) Notwithstanding the provisions of this Act, it shall be an offence if in an attempt to capture, fish, take, or hunt wild animals in Nigeria, any of the following methods is used/adopted:
- (a) Any method liable to cause mass destruction of wild animals;
 - (b) The use of drugs, poisons, poisoned weapons or poisoned baits;
 - (c) The use of mechanically propelled vehicles;
 - (d) The use of firearms capable of firing more than one round at each pull of the trigger;
 - (e) The use of fire;
 - (f) The use missiles containing detonators; and
 - (g) Explosives
- (10) Any person who in contravention of the provisions of this Act aids, abets, conspires or partakes in the use of any of the above methods shall be guilty of an offence and liable on conviction to a fine of one million naira (N1,000,000) or ten (10) years imprisonment or both.
- (11) It shall be an offence under this Act for any person(s) to display, sell or cause to be sold/displayed, advertise or canvass for sale, specimens of endangered species of wild fauna and flora included on the First Schedule of this Act (and Appendix I of the present Convention) in any public place, market, hotel or airport Duty Free Shops in Nigeria. Any person who does so shall be guilty of an offence and liable on conviction to a fine of five hundred thousand naira (N500,000) or five (5) years imprisonment or both such fine and imprisonment.
- (12) It shall be an offence under this Act for any person(s) to capture, take, hunt, display, sell or cause to be sold/displayed, advertise or canvass for sale, specimens of African-Eurasian waterbirds (or AEWA-listed species) anywhere in Nigeria. Any person who does so shall be guilty of an offence and liable on conviction to a fine of five hundred thousand naira (N500,000) or five (5) years imprisonment or both such fine and imprisonment.
- (13) For the purposes of obtaining a permit/certificate an applicant shall be required under this Act to make payments of fees and charges to the Management Authority as follows:
- (a) Application fee of twenty thousand naira (N20,000);
 - (b) Processing fees at the rates of one hundred thousand naira (N100,000) for CITES Appendix I/First Schedule species; fifty thousand naira (N50,000) for CITES Appendix II/ Second Schedule species; and thirty thousand naira (N30,000) for other species.

6. RECORDS

- (1) Management Authority shall maintain records of trade in specimens of species of wild fauna and flora, which shall include:**
 - (a) the names and addresses of exporters and importers thereof;**
 - (b) the number and type of permits and certificates granted;**
 - (c) the countries with which such trade occurred and the numbers or quantities and types of specimens involved;**
 - (d) the names of species as included in the First, Second or Third Schedules and the Appendices of CITES;**
 - (e) the probable source of the specimen;**
 - (f) the purpose of the trade; and**
 - (g) where applicable, the size, weight and sex of the specimens involved.**
- (2) Management Authority shall maintain records of ex-situ wildlife facilities operating in Nigeria; and their statistics on housing, feeding, health or sanitation, water quality/availability, species acquisition, species composition/age classification, breeding records, staffing, mortality, sales, exchanges, loans, special features, etc.**

7. MANAGEMENT, SCIENTIFIC AND ENFORCEMENT AUTHORITIES

- (1) The Management Authorities of CITES in Nigeria designated under this Act shall be the Federal Ministry responsible for wildlife conservation and management; and the Federal Department of Fisheries which shall be responsible for marine and freshwater fishery species only.**
- (2) The signatory to permits and certificates issued for the purposes of CITES shall be the Head of Management Authority: the Honourable Minister responsible for wildlife conservation and management matters, or any other officer to whom the function is delegated by the Honourable minister; and the Director of Fisheries or his designate.**
- (3) The Management Authority is authorised under this Act to carry out the following functions:**
 - (a) formulation and implementation of national policy on wildlife conservation and management in Nigeria;**
 - (b) communication with Management Authorities of other CITES Parties and with the Secretariat of CITES on all matters affecting the implementation of the Convention in Nigeria;**
 - (c) representing Nigeria at the Conferences of the Parties (COP) to the Convention and in the meetings of the CITES Standing Committee;**
 - (d) processing and issuance of CITES export and import permits, re-export certificates and certificates of origin for trade in wild fauna and flora;**
 - (e) rendering annual and bi-ennial reports on CITES implementation in Nigeria to the Secretariat of the Convention;**

- (f) charging and collection of application, processing and other administrative fees for issuance of CITES permits/certificates and other statutory functions;
 - (g) establishment of annual export quotas for each species in consultation with relevant Scientific Authority;
 - (h) Regulation, accreditation and compliance monitoring of zoological gardens, botanical gardens, game farms and ranches, rescue centres, aquaria, captive breeding and other ex-situ operations in Nigeria;
 - (i) create awareness and educate the public on CITES matters;
 - (j) liaison, co-operation and collaboration with the Nigeria Customs Service (NCS), Nigeria Police Force (NPF), Interpol, National Environmental Standards and Regulations Enforcement Agency (NESREA), National Agricultural Quarantine Service (NAQS), other law enforcement and regulatory agencies on implementation of CITES in Nigeria;
 - (k) Take decisions on the final disposal of seized and confiscated specimens of wild species, in close consultation with the Enforcement Authority;
 - (l) amendment of the list of species indicated in the Schedules of this Act, based on the advice of a Scientific Authority of Nigeria;
 - (m) render technical assistance to States and Local Governments on wildlife conservation and management issues and projects;
 - (n) make any regulation to facilitate the implementation of the provisions of this Act; and
 - (o) any other function within its mandate, or as prescribed under the Convention in the Decisions and/or Resolutions of the Conference of the Parties.
- (4) The Scientific Authorities of CITES in Nigeria designated under this Act shall be the following:
- (i) Forestry Research Institute of Nigeria (FRIN);
 - (ii) National Park Service (NPS);
 - (iii) National Institute for Oceanography and Marine Research (NIOMR);
 - (iv) National Institute for Freshwater Fisheries Research (NIFFR); and
 - (v) National Institute for Horticultural Research and Training (NIHORT);
- (5) the Scientific Authorities are authorised under this Act to carry out the following functions:
- (a) determine and advise Management Authority on safe levels of trade in specimens in the First and Second Schedules;
 - (b) determine and advise Management Authority on the environmental impact of importation of species included in the First Schedule into Nigeria;
 - (c) determine whether the recipient of live specimens included in the First Schedule is suitably equipped to house and care for them;
 - (d) determine whether introduction from the sea will not be detrimental to the survival of the species involved, or other species;

- (e) conduct periodic studies or Non Detriment Findings (NDF) on species in the First and Second Schedules and advise Management Authority accordingly;
 - (f) monitor the status of indigenous species included in Appendix II of the present Convention;
 - (g) conduct independent assessment of the information included in any proposal for the inclusion of species in Appendices I and II of the Convention;
 - (h) assist Management Authority with identification of specimens;
 - (i) represent Nigeria on the Plants and Animals Committees of the present Convention;
 - (j) periodically assess the national status of all CITES species to determine whether their current listing is appropriate; and
 - (k) advise Management Authority on the sustainable wildlife trade quotas for species in the First and Second Schedules.
- (6) The Enforcement Authority of CITES in Nigeria designated under this Act shall be the National Environmental Standards and Regulations Enforcement Agency (NESREA)
- (7) The Enforcement Authority is authorised under this Act to carry out, in addition to the provisions of the NESREA Act and related Regulations, the following functions:
- (a) general enforcement of the provisions of the present Convention and this Act within Nigeria;
 - (b) interrogate suspects and examine consignments, and documents in the course of enforcement duties;
 - (c) investigate and prosecute cases of illegal trade in specimens of wild fauna and flora species in Nigeria;
 - (d) search persons, baggages, containers, vehicles, vessels and premises suspected to possess or contain illegally acquired or traded specimens of wild fauna and flora, without warrant;
 - (e) confiscate illegally traded specimens, and dispose of them in line with the extant policy of the Federal Government of Nigeria or as decided by Management Authority of Nigeria;
 - (f) Keep confiscated and seized specimens in a safe store or facility constructed by NESREA in consultation with Management Authority and other enforcement Agencies, while live specimens are kept in approved Rescue Centres or other approved locations;
 - (g) liaise, co-operate and collaborate with the Nigeria Customs Service, Nigeria Police Force, Interpol, other law enforcement and regulatory agencies on enforcement matters; and
 - (h) maintain an office/presence at the air and sea ports, and land borders in Nigeria.

8 POWER TO MAKE REGULATIONS

- (1) Nothing in this Act shall prevent the Management Authority from taking regulatory and administrative measures to enforce the provisions of the present Convention and Act, to include:
- (a) prohibiting or regulating trade in any specimen of any species of wild fauna and flora;
 - (b) amending the application forms, permits, certificates, permit processing fees, penalties or period of validity of permits and certificates;

- (c) regulating the internal (in-country) trade in specimens of species of wild fauna and flora;
- (d) regulating the value-added processing of specimens of species permitted for trade;
- (e) regulating the methods and measures for the control of the outbreak of diseases and pests; and
- (f) prescribing new or additional administrative charges for any or all of its services.

9. INTERPRETATION

For the purposes of this Act, unless the context otherwise states:

- (a) “Species” means any species, sub-species, or geographically separate population thereof;
- (b) “Specimen” means:
 - (i) any wild animal or plant, whether alive or dead; and
 - (ii) any readily recognizable part (otherwise called Trophy) or any derivative (otherwise called Product) of a wild animal or plant.
- (c) “Trade” means export, re-export, import and introduction from the sea;
- (d) “Re-export” means export of any specimen that has previously been imported;
- (e) “Introduction from the sea” means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;
- (f) “Scientific Authority” means a national scientific authority designated in accordance with Article IX of the Convention on International Trade in Endangered Species of wild Fauna and Flora, hereinafter called ‘the Convention’ or CITES
- (g) “ Management Authority” means a national management authority designated in accordance with Article IX of the Convention
- (h) “Party” means a State for which the present Convention has entered into force;
- (i) “Minister” means the Minister of the Government of the Federation charged with the responsibility for matters relating to wildlife management and conservation;
- (j) “Wildlife” means and includes:
 - (i) wild animals and plants, whether or not they are indigenous to Nigeria;
 - (ii) migratory wild animals and birds that temporarily make their habitation in or over fly Nigeria;

- (iii) any animal or plant other than domestic animals or usually cultivated plants; and
- (iv) wild animals and plants that are indigenous to the continental shelf of Nigeria or the super-adjacent waters
- (k) “Rescue Centre” means any institution or place appointed or designated by the Management Authority of Nigeria to look after the welfare of living specimens, particularly those that have been confiscated, acquired, or donated (in accordance with Article VIII of the Convention)
- (l) “Court” means the Federal High Court or the State High Court
- (m) “Captive-Bred animal” or “bred in captivity” means captive–bred or bred in captivity as currently determined or interpreted by the Conference of the Parties to the Convention
- (n) “Artificially propagated plant” means artificially propagated as currently determined or interpreted by the Conference of the Parties to the Convention
- (o) “State” means any of the constituent States of the Federal Republic of Nigeria including the Federal Capital Territory.
- (p) “person” means an individual or a corporate body
- (q) “fauna” means animal; and “flora” means plant

10 - CITATION

This piece of legislation may be cited as the National Wildlife Species Protection Act 2015.

THE SCHEDULES TO THE NATIONAL WILDLIFE SPECIES PROTECTION ACT

FIRST SCHEDULE

Animals and plants in relation to which international trade is prohibited except in exceptional circumstances

FAUNA: ANIMAL LIST FOR THE FIRST SCHEDULE

INVERTEBRATES

African Giant Swallowtail
 Butterfly
 Butterfly
 All endemic Butterflies and Moths (family: Lepidoptera)

INVERTEBRATA

(family: Lepidoptera)

papilio antimachus
Acraea oreas oboti
Lepidochrysops dunni

FISHES

Puffer fish

AMPHIBIANS

Goliath Frog

REPTILES

Hawksbill Turtle
 Olive Ridley
 Green Turtle
 Leatherback Turtle
 Nile crocodile
 Slender-snouted Crocodile
 Dwarf Crocodile
 Nile Monitor lizard
 Bosc's Monitor lizard
 Royal Python
 Rock Python
 African Spurred tortoise
 Senegal Flapshell Turtle
 Serrated Hinge-back Tortoise

BIRDS

All Parrots
 Ostrich
 African Darter
 Secretary Bird
 Hamerkop
 Abyssinian Ground Hornbill
 Herons and Egrets and Bitterns
 All Pelicans
 All Storks
 All Vultures
 All Cranes
 All birds of prey (Raptors),
 All Owls
 Black Crowned Crane
 Denham's Bustard
 Nubian Bustard
 Cape Gannet
 White-crested Tiger Heron
 Lesser Flamingo
 Hartlaub's Duck
 Marbles Duck

PISCES

(family: Mormyridae)
Mormyrops oudoti
 (family: Tetraodonitidae)
Tetraodon fahaka

AMPHIBIA

Conraua goliath

REPTILIA

Eretmochelys imbricata
Lepidochelys olivacea
Chelonia mydas
Demochelys coriacea
crocodylus niloticus
Crocodylus cataphractus
Osteolaemus tetrapis
Varanus niloticus
Varanus exanthematicus
Python regius
Python sebae
Geochelone sulcata
Cylanorbis senegalensis
Kinixys erosa

AVES

Family Psittacidae
Struthio camelus
Anhinga rufa
Sagittarius serpentarius
Scopus umbretta
Bucorvus abyssinicus
 Family: Ardeidae
 Family: Pelencanidae
 Family: Ciconiidae
 Family: Accipitridae
 Family: Gruidae
 family: Falconidae
 family: Strigidae and Tytonidae
Balearica pavonina
Neotis denhami
N. ruba
Sula capensis
Tigriornis leucolophus
Phoenicopter minor
Pteronetta hartlaubii
Marmaronetta angustirostris

Ferruginous Duck
 Fulvous tree duck
 Lappet-faced vulture
 Corn crane
 Great Snipe
 Black-winged pratincole
 Damara Tern
 African Skimmer
 Cameroon Olive Pigeon
 Fernando Po Swift
 Brown-cheeked Hornbill
 Yellow-casques Watled Hornbill
 Greater honeyguide
 Yellow-footed Honeyguide
 Western wattled Cuckoo-Shrike
 Cameroon Montane Greenbul
 Cameroon Olive Greenbul
 Baumann's Greenbul
 Grey-headed Greenbul
 Green-tailed Bristle-bill
 Yellow-breasted Boubou
 Green-breasted Bush-Shrike
 Mountain Robin-Chat
 Crossley's Ground-Thrush
 Bangwa (Cameroon scrub) Forest Warbler
 Black-capped Woodland-Warbler
 White-tailed Warbler
 Green Longtail
 Dorst's Cisticola
 Tessmann's Flycatcher
 White-throated Mountain Babbler
 Red-headed Rockfowl
 Cameroon Blue-headed Sunbird
 Ursula's Sunbird
 Green-breasted Bush Strike
 Mount Kupe Bush-Shrike
 Fernando Po Oliveback
 Anambra Waxbill
 Rock Fire-Finch
 Jos Plateau Indigobird
 Rachel's Malimbe
 Bannerman's Weaver
 Ibadan Malimbe

MAMMALS

Bats

Leaf-nosed Bat

Aythya nyroca
Dendrocygna bicolor
Torgos tracheliotus
Crex crex
Gallinago media
Glareola nordmanni
Sterna balaenarum
Rynchops flavirostris
Columba sjostedti
Apus (barbatus) sladeniae
Bycanistes (Ceratogymna) cylindricus
Ceratogymna elata
Indicator indicator
Melignomon eisentrauti
Lobotos lobotus
Andropardus montanus
Phyllastrephus poensis
Phyllastrephus baumanni
Phyllastrephus poliocephalus
Bleda eximius
Laniarius atroflavus
Malaconotus (Telophorus) gladiator
Cossypha isabellae
Zoothera Crossleyi
Bradypterus (lopezi) bangwaensis
Phylloscopus herberti
Poliolais lopezi
Urolais epichlora
Cisticola dorsti
Muscicapa tessmanni
Kupeornis gilberti
Picathartes oreas
Nectarinia oritis
Cinyris ursulae
Malaconotus gladiator
Malaconotus kupeensis
Nesocharis shelleyi
Estrilda poliopareia
Lagonostica sanguinodorsalis
Vidua maryae
Malimbus racheliae
Ploceus bannermani
Malimbus ibadanensis

MAMMALIA

Chiroptera

Hipposideros curtus

Leaf-nosed Bat
Horseshoe Bat
Butterfly Bat
Serotine Bat
Wooly Bat
House Bat

Insectivores

Otter Shrew
Shrew
Shrew

Rodents

Fat-mouse
Fat-mouse
Soft-furred rat
Shaggy Swamp Rat
Multimammate Rat

Rusty-nosed Rat
Flying Squirrels
Long-eared Flying Mouse

Pangolins

Giant Ground Pangolin
White-bellied Tree Pangolin
Long-tailed tree (Black-bellied) Pangolin

Pottos, Galagos, monkeys and Apes

Calabar Angwantibo
Potto
Northern Needle-clawed Galago
Allen's Galago
Olive Colbus
Black and White Colobus
Niger Delta red colobus
Preuss's Red Colobus
Red-capped Mangabey
Grey-cheeked Mangabey
Drill
Preuss's Monkey
White-thoated Monkey
Red-eared Guenon
Sclater's Monkey
Chimpanzee
Cross River Gorilla

Hipposideros jonesi
Rhinolophus alycone (*Rhinolophinae*)
Chalinolobus Poensis
Eptesicus Brunneus
Kerivoula smithii
Scotopplus nigrita

Insectivora

Potamogale velox
Crocidura longipes
Crocidura Foxi

Rodentia

Streatomys jacksoni
Steatomys cuppedius
Praomys jacksoni
Dasymys foxi
Mastomys verheyeni
Crptomys foxi
Oenomys hypoxanthus
Family: *Anomaluridae*
Idiurus macrotis

Pholidota

Smutsia gigantea (*Manis gigantea*)
Phataginus tricuspis (*Manis tricuspis*)
Uromanis tetradactyla (*M. tetradactyla*)

Primates

Arctocebus calabarensis
Perodicticus potto
Euoticus pallidus
Galago Alleni
Procolobus verus
Colobus guereza
Piliocolobus pennant epieni
Piliocolobus preussi
Cercocebus torquatus
Lophocebus albigena
Mandrillus leucophaeus
Cercopithecus preussi
Cercopithecus erythrogaster
Cercopithecus erythrotis
Cercopithecus sclateri
Pan troglodytes ellioti
Gorilla gorilla diehli

Carnivores

Lion
 Leopard
 Cheetah
 Civet
 African palm civet
 Serval
 Caracal
 Golden Cat
 Wild Cat
 Spotted Hyaena
 Striped Hyaena
 Wild dog
 Cape Clawless Otter
 Sport-necked Otter
 Swamp Otter

Aardvark

Aardvark

Elephants

African Savanna elephant
 African Forest elephant

Manatee

Manatee

Perissodactyls

Black Rhinoceros

Artiodactyls (Even-toed ungulates)

Hippopotamus
 Pygmy Hippopotamus
 Giraffe
 Western Hartebeest
 Red-flanked Duiker
 Bay Duiker
 Maxwell's Duiker
 Black Duiker
 Ogilby's Duiker
 Yellow-backed Duiker
 Dwarf Antelope
 Topi
 Roan Antelope
 Waterbuck
 Kob
 Klipspringer

Carnivora

Panthera Leo
Panthera Pardus
Acinonyx jubatus
Civettictis civetta
Nandinia binotata
Felis serval
Felis caracal
Felis aurata
Felis sylvestris
Crocuta crocuta
Hyaena hyaena
Lycaon pictus
Aonyx capensis
Lutra maculicollis
Aonyx congica

Tubulidentata

Orycteropus afer

Proboscidea

Loxodonta africana africana
Loxodonta africana cyclotis

Sirenia

Trichechus senegalensis

Perissodactyla

Diceros bicornis

Artiodactyla

Hippopotamus amphibius
Hexaprotodon liberiensis
Giraffa camelopardalis
Alcelaphus buselaphus major
Cephalophus rufilatus
Cephalophus dorsalis
Cephalophus maxwellii
Cephalophus niger
Cephalophus ogilbyi
Cephalophus silvicultor
Neotragus batesi
Damaliscus lunatus
Hippotragus equinus
Kobus ellipsiprymnus defassa
Kobus kob (Adenota kob)
Oreotragus oreotragus

Oribi
 Reedbuck
 Mountain Reedbuck
 African Buffalo
 Red-fronted Gazelle
 Dorcas Gazelle
 Dama Gazelle
 Giant Eland
 Water Chevrotain
 Giant Forest Hog
 Sitatunga

Ourebia ourebi
Redunca redunca
Redunca fulvorufula
Syncerus caffer
Gazella rufifrons
Gazella dorcas
Gazella dama
Taotragus derbianus
Hyemoschus aquaticus
Hylochoerus mainerzhageni
Tragelapplus spekei

Whales and Dolphins

Whales

Cetaceae

Family: Balaenopteridae

Family: Physeceridae

Family: Zaphiidae

Family: Delphinidae

Genus: Orcinus)

Family: Delphinidae

Sousa teuszii

Family: Platanistidae

Dolphins

Atlantic Hump-backed Dolphin

Porpoises

SHARKS

Hammerhead sharks

Sphyrna lewini

Sphyrna mokarran

Sphyrna zygaena

CLASS ELASMOBRANCHII

Sphyrnidae

FLORA: PLANT LIST FOR THE FIRST SCHEDULE

ACANTHACEAE

Adhatoda maculate

ADIANTACEAE

Coniogramme africana

ANACARDIACEAE

Trichoscypha acuminata

ANNONACEAE

Piptosigma pilosm

Uvariastrum piereanum

Dennittia tripetala

Monodora myristica

Xylopiya aethiopica

Pepper fruit

Calabar nutmeg

African pepper

APOCYNACEAE

<i>Orthopichonia nigeriana</i>	.....
<i>Strophanthus bullenianus</i>	.....
<i>Landolphia klainii</i>	.....
<i>Voacanga bracteata</i>	.....
ASCLEPIADACEAE		
<i>Brachystelma omissum</i>	.....
<i>Gongronema latifolium</i>	.....	'Utazi'
ASPLENIACEA		
<i>Asplenium mannii</i>	.....
ASTERACEAE		
<i>Vernonia bamendae</i>	.....
<i>Acanthospermum austral</i>	.....
<i>Lactuca tuberosa</i>	.....
BALSAMINACEAE		
<i>Impatiens zenkeri</i>	.....
BIGNONIACEAE		
<i>Kigelia africana</i>	.....	Sausage tree
BORANGINACEAE		
<i>Cordia rothii</i>	.....
BRASSICAEAE		
<i>Zilla spinosa</i>	.....
BURMANNIACEAE		
<i>Afrothismia winkleri</i>	.....
BUXACEAE		
<i>Notobuxus acuminata</i>	.....
CAPPARACEAE		
<i>Capparis erthrocarpos</i>	.....
CARYOPHYLLACEAE		
<i>Stellaria mannii</i>	.....
CECROPIACEAE		
<i>Myrianthus arboreus</i>	.....
CELASTRACEAE		
<i>Salacia hispida</i>	.....

CHRYSOBALANACEAE

Acioa dichotoma

CLUSIACEAE

Allanblackia floribunda Tallow tree

COMBRETACEAE

Terminalia bellerica

Anogeissus leiocarpus

Combretum confertum

Combretum nigricans

Combretum microphyllum

COMMELINACEAE

Commelina bracteosa

CONNARACEAE

Jollydora duparquetiana

DENNSTAEDTIACEAE

Lonchitis gracilis

DRACAENACEAE (Agavaceae)

Dracaena goldieana Dragon plant

DRYOPTERIADACEAE (Aspidiaceae)

Ctenitis securidiformis

EBENACEAE

Diospyros melocarpa

Diospyros hloeanae

Diospyros obliquifolia

Diospyros crassiflora Benin ebony

Diospyros mespiliformis Ebony

EUPHORBIACEAE

Dischostemma glaucescens

Mareyopsis longifolia

Pseudagrostistachys africana

Plagiostyles africana

GNETACEAE

Gnetum africanum afang

HUMIRIACEAE

Sacoglottis gabonensis

LACOURTIACEAE

<i>Ophiobotrys zenkeri</i>	.....
<i>Phyllobotryum soya</i>	.....
<i>Soyauxia talbotii</i>	

LAMIACEAE (Verbenaceae)

<i>Vitex doniana</i>	Sweet black plum
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LAURACEAE

<i>Beilschmiedia mannii</i>	spicy cedar
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LECYTHIDACEAE

<i>Creteranthus talbotii</i>	
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LEGUMINOSAE (FABACEAE)

<i>Dedelotia africana</i>	
<i>Cryptosepalum diphyllum</i>	
<i>Loesenera talbotii</i>	
<i>Pericopsis elata</i>	.....	<i>Afrormosia</i>
<i>Azelia africana</i>	.....	<i>African oak</i>
<i>Detarium senegalense</i>	.....	<i>Yellow wood</i>
<i>Anthonotha lamprophylla</i>	
<i>Dialium pachyphyllum</i>	

LOACACEAE

<i>Diogoia zenkeri</i>	
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MELIACEAE

<i>Khaya senegalensis</i>	Mahogany
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ORCHIDACEAE

PALMAE (ARECACEAE)

<i>Raphia spp.</i>	Raphia palms
<i>Oncocalamus acanthocnomis</i>	Rattan

PHYTOLACCACEAE

<i>Poga oleosa</i>	
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PIPERACEAE

<i>Piper guineense</i>	Black pepper
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RHIZOPHORACEAE

<i>Rhizophora spp</i>	Mangrove
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ROSACEAE

<i>Prunus Africana</i>	Bitter almond
RUBIACEAE		
<i>Nauclea diderrichii</i>	Opepe
<i>Canthium hispidum</i>	.....
<i>Mitragyna stipulosa</i>	.....
RUTACEAE		
<i>Araliopsis tabouensis</i>	.....	Chicken popo
<i>Zanthoxylum zanthoxyloides</i>	.....	Candle wood
SAPORACEAE		
<i>Tieghemella heckelii</i>	.....	Cherry
mahogany		
<i>Vitellaria parkii</i>	.....
<i>Vitellaria paradoxum</i>	.....	Shea butter
<i>Synsepalum dulcificum</i>	.....	Miraculous berry, agbayun
SCYTOPERALACEAE		
<i>Scytopetalum tieghemii</i>	.....
STERCULIACEAE		
<i>Triplochiton scleroxylon</i>	.....	Obeche, arere
<i>Sterculia africana</i>	.....
<i>Waltheria indica (var. prostrate)</i>	.....
<i>Mansonia altissima</i>	.....	Mansonia
<i>Cola lepidota</i>	.....	Cockroach kola
ZINGIBERACEAE		
<i>Alpinia siamensis</i>	.....

SECOND SCHEDULE

Animals in relation to which international trade may only be conducted under license

FAUNA: ANIMALS LIST FOR THE SECOND SCHEDULE

INVERTEBRATES

Chironomid fly

FISHES

Mormyrids

Elephant Nose Fish
 Elephant Nose Fish
 Elephant Nose Fish
 Long Nose Fish

INVERTEBRATA

Polypedilum vandeplankii

PISCES

(Mormyridae)

Gnathonemus peterssii
Gnathonemus deboensis
Gnathonemus Niger
Gnathonemus tamandua
Marcusenius isidori
Marcusenium harrintoni

Mochokids

Squeaker
Squeaker
Squeaker

Characids

Silversides
Silversides
Silversides
Alestes

Jewel fish

Flagfins

Barbus

African lung Fish

Red-saddled Bichir
Bichir
Senegal Bichir

Butterfly fish

Feather Back
African Knife-Fish

Sea Catfish

Tailspot Ctenopoma

Mormytops engystoma

(Mochokidae)

Synodontis robbianus
Synodontis amias
Synodontis filamentosus

(Characidae)

Alestes imberi
Alestes leuciscus
Alestes nurse
Alestes chaperi

(Cichlidae)

Hemichromis bimaculatus

(Schilbedae)

Siluranodon auratis

(Bagradae)

Chrysichtchys furcatus

(Cyprinidae)

Barrillius senegalensis
Barbus occidentalis

(Lepidosirenidae)

Protopterus annectens

(Polypteridae)

Polypterus enlichleri
Polypterus birchlii tapradei
Polypterus senegalensis

(Pantodontidae)

Pantodon bucholzi

(Notopteridae)

Notopterus afer
Xenomystus nigrii

(Ariidae)

Artius gigas

(Anabantidae)

Ctenopoma kingsleyae
Ctenopom petherici

Aba

(Gymnarchidae)

Gymnarchus niloticus

(Mastacembelidae)

Mastacembelus leobergii

Pomadasys jubelini

(Dasyatidae/Poladasyidae)

Potamotrygon garroueassis

(Cynoglossidae)

Cynoglossus senegalensis

(Polynelidae)

Polynemus quadrifilis

(Mugilidae)

Mugil cephalus

Mugil facipinnis

(Lutjanidae)

Lutjanus facipinnis

(Gobbidea)

Gobiocichla wonderi

Goby

(Channidae)

Channas Obscura

Snake fish

(Malapteruridae)

Malapterurus spp.

Electric fish

AMPHIBIANS

African Bullfrog

AMPHIBIA

Dicroglossus occipitalis

REPTILES

All Chameleons

All tortoises and Turtles

REPTILIA

family: Chameleoniae

Order: Chelonia

BIRDS

All Forest Guinea fowls

All forest Hornbills not listed in First Schedule

All Forest turacos

All ducks and Geese not listed in First Schedule

All Ibises not listed in First Schedule

Popular pet birds, e.g.,

Yellow-fronted Canary

AVES

Family: Numididae

Family: Bucerotidae

Family: Musophagidae

Family: Anatidae

family: Threskiornithidae

Serinus mozambicus

Cut-throat

CICONIIFORMES

Eurasian bittern

Little Bittern

Dwarf Bittern

Rufous bellied – Heron

Purple Heron

Yellow billed– stork

Black stork

Wooly – necked stork

White stork

Glossy ibis

Sacred ibis

African spoonbill

Eurasian Spoonbill

FALCONIFORMES

Osprey

GALLIFORMES

Common quail

GRUIIFORMES

Spotted Crake

Little Crake

Corn Crake

Bohms Flufftail

CHARADRIFORMES

Black winged stilt

Eurasian avocet

Stone curlew

Black winged Practincole

Slender billed gull

Caspian tern

Royal tern

Amadina fasciata

Family: Ardeidae

Botaurus stellaris

Ixobrychus minutus

Ixobrychus sturmii

Ardeola rufiventris

Ardea purpurea

Family: Ciconidae

Mytheria ibis

Ciconia nigra

Ciconia episcopus

Ciconia ciconia

F. – Threskiornithidae

Plegadis falcinellus

Threskornis aethiopicus

Platallea alba

Platalea leucorodia

F. – Pandonidae

Pandion haliaetus

F. - Phasianidae

Cotunix cotunix

F. – Rallidae

Porzana porzana

Porzana parva

Crex crex

Sarothura boehmi

F. - Recurvirostridae

Himantopus himantopus

Recurvistra avocetta

F. - Burhinidae

Burhinus oedicephalus

F. - Glareolidae

Glareola nordmanni

F. – Laridae

Larus genei

Sterna caspia

Sterna maxima albidorsalis

Greater crested Tern
Roseate Tern
Common Tern
Arctic Tern
Little Tern
Black Tern
White winged black tern

African Skimmer
COLUMBIFORMES

European Turtle Dove
CORACIFORMES

European Bee – eater

European Roller

MAMMALS

All other Galagos not listed in First Schedule
All Monkeys (Except those specified in First Schedule)

CARNIVORES

Side-striped Jackal
Common (Golden) Jackal
African Civet
Sand Fox
All genets
Two-spotted Palm Civet
Zorilla
All Mongooses
Ratel

ARTIODACTYLS

Warthog
Red river Hog
All Duikers not listed in First Schedule
Bushbuck

RODENTS

African Palm Squirrel
Crested Porcupine
All other flying Squirrels

Sterna bergi
Sterna dougalli
Sterna hirundo
Sterna paradisaea
Sterna albifrons
Chidonias niger niger
Childornis leucopterus

F. - Rynchopidae
Rynchops flavirostris

F. - Columbidae
Streptopelia turtur

F. – Meropidae
Merops apiaster

F. - Coraciidae
Coracias ganulus

MAMMALIA

Galagonidae

CARNIVORA

Canis adustus
Canis aureus
Civettictis civetta
Vulpes pallida
Genetta spp.
Nandinia binotata
Ictonyx striatus
Herpestinae
Mellivora capensis

ARTIODACTYLA

Phacochoerus africanus
Potamochoerus porcus

Tragelaphus scriptus

RODENTIA

Epixerus ebi
Hystrix cristata
Family: anomaluridae

FLORA: PLANT LIST FOR THE SECOND SCHEDULE

AMARANTHACEAE

Celosia Isertii

ANNONACEAE

Hexalobus grandiflorus

APOCYNACEAE

Motandra guineensis Agba doye

Alstonia boonei

Funtumia elastic

ARISTOLOCHIACEAE

Aristolochia elegans

BALANTACEAE (Zygonphyllaceae)

Balanites aegyptiaca Balanites

BIGNONIACEAE

Spathodea campanulata Flame tree

BOMBACACEAE

Adonsonia digitata baobab

Ceiba pentandra Silk cotton tree

BURSERACEAE

Canarium schweinfurthii Bush candle tree, canarium

Dacryodes edulis native pear

Commiphora africana African myrrh

COMBRETACEAE

Terminalia glaucescens

CRASSULACEAE

Bryophyllum pinnatum

CUCURBITACEAE

Ruthalicia eglanulosa

EUPHORBIACEAE

Sapium ellipticum

Disconglypremna caloneura Physic nut tree

Acalypha manniana

FABACEAE

Aubrevillea kerstingii

GUTTIFERAE

<i>Garcinia afzelii</i>	.....
<i>Garcinia cola</i>	bitter kola
<i>Garcinia mannii</i>	bitter kola

LECYTHIDACEAE

<i>Napoleonaea lutea</i>	
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LEGUMINOSAE (FABACEAE)

<i>Crotalaria pallida</i>	
<i>Entada Africana</i>	
<i>Parkia biglobosa</i>	locust bean tree
<i>Daniella oliveri</i>	.....	Ogea
<i>Swartzia fistuloides</i>	.....
<i>Baillonella toxisperma</i>	.....
<i>Sacoglottis gabonensis</i>	.....
<i>Sesbania macrantha</i>	.....
<i>Tamarindus indica</i>	.....	Termarind
<i>Isoberlinia doka</i>	.....	Doka
<i>Pterocarpus erinaceus</i>	Madobia

MORACEAE

<i>Antiaris africana</i>	false iroko
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MYRISTICACEAE

<i>Pycnanthus angolensis</i>	
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NAJADACEAE

<i>Najas pectinata</i>	
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ORCHNACEAE

<i>Lophira alata</i>	red iron wood
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ORCHIDACEAE

<i>Liparis goodeyroides</i>	
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PODOSTEMACEAE

<i>Sexicolella marginalis</i>	
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LAW
ENVIRONMENT AND
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REVIEW OF NESREA ACT 2007 AND REGULATIONS 2009-2011: A NEW DAWN
IN ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT IN NIGERIA

Muhammed Tawfiq Ladan

COUNTRY LEGISLATION



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Country Legislation

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Muhammed Tawfiq Ladan, Professor of Law, Department of Public Law, Faculty of Law, Ahmadu Bello University, Zaria, Nigeria, Email: mtladan@gmail.com

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1

INTRODUCTION

Nigeria's formal environmental regime has developed significantly from humble beginnings,¹ to the promulgation of twenty-four environmental regulations.² Nigeria, the most populous nation in Africa, rich in oil but underdeveloped,³ has its own share of environmental problems which justify local and international attention. In terms of Nigeria's environmental problems,⁴ the four broad issues being accorded highest priority at present are: ensuring sustainable industrial production; preventing and reversing desertification; managing forest, wildlife and natural resources; combating floods and erosion.⁵

2

BRIEF OVERVIEW OF THE DEVELOPMENT OF ENVIRONMENTAL LAW IN NIGERIA⁶

Environmental law in Nigeria is that branch of public law, which contains rules and regulations, which have as their object or effect the protection of the environment.⁷

During the colonial era, protection of the environment was not a priority in Nigeria and there was accordingly no policy aimed at preserving and protecting it. Matters relating to the environment were dealt with as a tort of nuisance because disputes in environmental law were not viewed as public matters warranting state intervention. The few environment related laws criminalised activities that could degrade the environment. These laws included the Criminal Code Act⁸ of 1916, which prohibited water pollution and air pollution and created the offence of nuisance.

In 1917 the Public Health Act⁹ was enacted. Although somewhat broad in scope, this Act contained provisions of relevance to the regulation of land, air and water pollution. Thus it is evident that at this time matters relating to the environment were dealt with in a rudimentary manner, from the viewpoint of environmental sanitation.

Following Nigeria's independence in 1960 and the discovery of oil, it became apparent that existing laws dealing with the environment were grossly inadequate. This was owing to the fact that most of the provisions on environmental protection were scattered throughout different laws, resulting in an *ad hoc* response to different needs in different situations.¹⁰ During the decade following independence, the Government criminalised polluting activities, particularly those relating to the discharge of oil in navigable waters and environmental degradation as a result of petroleum activities. The 1970s saw the further development of Nigeria's environmental regime in response to industrial growth associated with the oil boom.¹¹ River basin authorities¹² were created and environmental units were established in some government ministries.¹³ The laws were, however, typically 'knee-jerk' responses to emergency situations.

8 Cap.C.38 LFN 2004.

9 Cap.P.40 LFN 2004.

10 See F. Shyllon, 'Present and future institutional framework for environmental management in Nigeria', in Shyllon note 6 above.

11 See Appendix 2 of this paper.

12 *Id.*

13 E.g., Ministries of Agriculture, Water Resources and Environment.

1 See M.T. Ladan, *Materials and Cases on Environmental Law and Policy* 117-244 (Zaria, Nigeria: ECONET Publishers, 2004).

2 See Federal Republic of Nigeria, Abuja, Official Gazette, Vol. 96, Nos. 58-68 dated 2-20 October 2009.

3 Underdevelopment is universally measured in terms of standard of living, gross domestic product, foreign exchange denominator, foreign reserves, political stability and the level of fundamental human rights of the citizens.

4 See generally, the *National Policy on the Environment* of 1999 (Revised edition), at pp. 30-37.

5 See Appendix 1 for a brief discussion on the four broad environmental problems/challenges being accorded highest priority at present in Nigeria.

6 See generally, P.B. Ajibola, 'Protection of the environment through the Law', in F. Shyllon ed., *The Law and the Environment in Nigeria* (Ibadan: University of Ibadan Press, 1999).

7 See generally, Y. Osinbajo, *Some Public Law Considerations in Environmental Law* (Lagos: Faculty of Law, University of Lagos, 1990).

The 1980s and 1990s witnessed the most drastic and systematic development of environmental laws in Nigeria, partly owing to Nigeria's ratification of or accession to a number of international instruments during this period.¹⁴ The main national laws and decrees developed during this period, and which are still in operation today, are listed in Appendix 2 of this paper.

These laws and decrees are supported by an array of national regulations¹⁵ and policies¹⁶ of environmental significance. The most recent and important addition to Nigeria's environmental regime is the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act (NESREA Act),¹⁷ which came into force in 2007. The Act establishes the National

Environmental Standards and Regulations Enforcement Agency (NESREA or Agency), Nigeria's lead environmental protection agency.

As should be evident from the above, Nigeria's formal environmental regime has developed significantly from humble beginnings. Having been initiated in the colonial period during which environmental issues were generally couched within public health regulation,¹⁸ and having developed in a rather *ad hoc* manner in the early days of independence during which heavy reliance was placed the law of nuisance, Nigeria now has a relatively comprehensive environmental regime. This regime is administered by an array of institutions. The Federal Ministry of Environment, Housing and Urban Development and the National Environmental Standards and Regulations Enforcement Agency are then main institutions responsible for the formulation of environmental policy, monitoring compliance and enforcement respectively. Their functions are supported by the following government institutions: Federal Ministry of Solid Minerals Development; Federal Ministry of Agriculture and Natural Resources; Federal Ministry of Water Resources; Federal Ministry of Science and Technology; and Ministry of Energy, Oil and Gas Resources.

14 These include: Convention on Biological Diversity (1992) 31 *ILM* 818; United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification (1994) 33 *ILM* 1328; Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973) 46 *ILM* 1178; Convention on the Conservation of Migratory Species of Wild Animals (1980) 19 *ILM* 11; Vienna Convention on the Protection of the Ozone Layer (1987) 26 *ILM* 1516; Montreal Protocol on Substances that Deplete the Ozone Layer; Stockholm Convention on Persistent Organic Pollutants (2001) 40 *ILM* 532; and Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989) 28 *ILM* 567. For a comprehensive discussion of the international and regional environmental instruments which Nigeria is party to, see S. Simpson and O. Fagbohun eds, *Environmental Law and Policy* 10-49 (Lagos: Law Centre, Faculty of Law, Lagos State University, 1998); I.A. Ayua and O. Ajai, *Implementing the Biodiversity Convention: Nigerian and African Perspectives* (Lagos: Nigerian Institute of Advanced Legal Studies, University of Lagos, 1997); and I.L. Worika, *Environmental Law and Policy of Petroleum Development: Strategies and Mechanisms for Sustainable Management in Africa* 62-80 and 311-328 (Port Harcourt, Nigeria: Anpeze Centre for Environment and Development, 2002).

15 Relevant regulations include: National Environmental Protection (Effluent Limitations) Regulation, 1991; National Environmental in Protection (Pollution Abatement in Industries and Facilities Generating Wastes) Regulations, 1991; and Management of Solid and Hazardous Waste Regulations, 1991.

16 Relevant policies include: National Policy on the Environment of November 1989 (revised in 1999); and the draft National Policy on Environmental Sanitation and its Guidelines (2004).

17 Act 57 of 2007.

3 MAJOR DRAWBACKS OF THE DEFUNCT FEDERAL ENVIRONMENTAL PROTECTION AGENCY (FEPA) ACT AND REGULATIONS 1991-2006

The Federal Environmental Protection Agency (FEPA) was defunct and its Act and Regulations were repealed in 2007 by the NESREA Act. The major drawbacks of FEPA were:¹⁹

18 O. Okediran, 'An appraisal of Environmental Sanitation Edicts in Nigeria', in Shyllon, note 6 above, at 25.

19 See M.A. Ajomo and O. Adewale eds, *Environmental Law and Sustainable development in Nigeria* 1-11 (Lagos: Nigerian Institute of Advanced Legal Studies, 1994).

- I. Lack of or weak enforcement of existing environmental laws and regulations. FEPA gave industries five years moratorium in 1990 for industrial compliance with the installation of pollution abatement facilities, which expired in 1994. Nonetheless compliance rate by industries was generally low (between 20-40 per cent). Even then the efficiency of many of the pollution abatement facilities was suspect. Many had broken down, or were grossly inadequate or were just operationally cosmetic to give semblance of compliance.²⁰
 - Visual impairment and reduced fish catch in costal and marine waters;²⁵
 - Nuisance and health problems from industrial effluents disposed on land or wetlands;²⁶
 - Worsening public health through exposure to pollutants, thereby putting the lives of millions of Nigerians at risk from water related health diseases such as typhoid fever epidemic.²⁷
- II. The enforcement mechanism was through visits to facilities for compliance monitoring, facilities work through, find out challenges for non-compliance, examine monitoring records where they exist, undertake in situ environmental monitoring of some parameters and discuss findings with the facility manager; and proffer appropriate advice that could promote compliance or issue warning where non-compliance is persistent.²¹
- III. The resultant consequence of the above mentioned poor environmental compliance or weak enforcement regime were the following industrial pollution problems and their impact on the environment and human health in Nigeria: - ²²
 - Surface waters (60-70 per cent) in urban areas coloured, foul smelling, fishless, and were non-potable and non-swimmable;²³
 - Shallow groundwater aquifers contaminated by infiltration of domestic and industrial wastes; petroleum waste products, toxic and non-toxic;²⁴

4 LESSONS LEARNT

Hence the major lessons learnt from the above include the following:

- It is counter-productive and unsustainable for a lead environmental protection agency to pursue a weak or outdated compliance monitoring and enforcement strategy.²⁸
- It is retrogressive to lack focus on pollution prevention strategies, life cycle analysis approach and non-integration of environmental treaties obligations into national environmental compliance and enforcement framework on industrial, wastes and chemicals pollution control for the benefit of present and future generations.²⁹

²⁰ See A. Ahmad, *Policing Industrial Pollution in Nigeria* 131-5, Essay submitted to the Harvard Law, School, Cambridge MA, USA (in partial fulfillment of the award of LLM degree, 2001).

²¹ *Ibid*, at 141-3.

²² Ajomo and Adewale, note 19 above, at 67-80.

²³ *Ibid*, at 115-8.

²⁴ Ahmad, note 20 above, at 144-6.

²⁵ See Osibanjo O., *Promoting Environmental Standards, Regulations and Compliance in Nigeria*, Paper presented at the National Stakeholders Forum on the new mechanism for environmental protection and sustainable development in Nigeria, NESREA, Abuja, 22-23 October 2007, pp. 11-15.

²⁶ *Ibid*, at 14-16.

²⁷ See M.T. Ladan, *Biodiversity, Environmental Litigation, Human Rights and Access to Environmental Justice in Nigeria* 80-89 (Zaria: Faith Publishers, 2007).

²⁸ *Ibid*, at 81.

²⁹ *Ibid*, at 92.

- It is inexcusable not to borrow a leaf from best practices by exploring the use of economic incentives such as tax holidays and tax exemptions as a means to promote high compliance by industries.³⁰
- It is ineffective for environmental pollution control and prevention not to pursue adequately inter-agency cooperation and collaboration including information sharing and exchange among government agencies and other federating units that have similar mandate or overlapping functions.³¹

5

ESTABLISHMENT OF NESREA: A NEW DAWN

The National Environmental Standards and Regulation Enforcement Agency is currently the major federal body charged with the protection of Nigeria's environment. NESREA was created by the NESREA Act.³² The federal government, in line with section 20 of the 1999 constitution, established the Agency as an institution under the supervision of the Federal Ministry of Environment, Housing and Urban Development. NESREA was created to replace the defunct Federal Environmental Protection Agency (FEPA). In examining the enforcement of the preventive principle in Nigeria, it is necessary to take a look at the establishment, mandate and powers of NESREA.

NESREA was established on 30 July 2007 as a body corporate with perpetual succession and a common seal, which may sue and be sued in its corporate name.³³ It is responsible for the enforcement of environmental standards, regulations, rules, laws,

policies and guidelines. Its authority extends to the enforcement of environmental guidelines and policies, such as the National Policy on the Environment, 1999. This is indicative of the importance and relevance of standards, rules, policies and guidelines on the environment. Although they may not have the force of law, they are a vital and necessary element in the protection and preservation of the environment.

The Agency is charged with responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria's natural resources as well as environmental technology.

The NESREA Act and Regulations constitute a new dawn because in both purpose and contents, they aim at addressing the preponderance of obsolete environmental regulations, standards and enforcement mechanisms, which resulted, over the years, in the high rates of non-compliance with environmental laws, regulations and standards.

In order to deliver on her mandate, the immediate implementation strategies of NESREA are: i) collaboration and partnership; ii) conducting public education and awareness on topical environmental issues; and iii) strengthening institutions and building capacity to monitor compliance and enforce existing environmental regulations, including guidelines for best practices.

In terms of collaboration and partnership, NESREA's enabling law and regulations provided a platform for:

- Creating fora for dialogue, exchange of information and best practices as well as build consensus and partnerships among all stakeholders. This informed NESREA's decision to organise the 1st National Stakeholders' Forum on "The new Mechanism for Environmental Protection and Sustainable Development in Nigeria" with the theme "ensuring a safer and cleaner environment in Nigeria through partnerships".

30 Ahmad, note 20 above, at 151.

31 Osibanjo, note 25 above, at 16-18.

32 No. 25 July 30, 2007

33 NESREA Act No. 25 of 2007, section 1(2).

- As part of the partnership strategy, NESREA proposes to have Zonal Headquarters in the six geo-political Zones and Offices in all States of the Federation.
- To date NESREA has established five (5) functional Zonal Offices in Port-Harcourt – Rivers State; Owerri-Imo State; Jos – Plateau; Gombe – Gombe State; and Kano – Kano State. NESREA also has thirteen (13) State Offices.
- NESREA goes beyond local partnership to collaborate with international bodies, Agencies and Non-governmental organisations including international regulatory bodies e.g. UN Agencies; World Bank; Partners for Water and Sanitation (PAWS-UK); United Kingdom Environment Agency;
- Sector-specific consultative meetings for sharing of ideas and experience, and better dissemination of information, e.g. Nigerian Tanners Council, Association of Food Beverages and Tobacco employers.

Between 2007-2011, there has been continuous advocacy at all levels in the print and electronic media to properly communicate the concept of voluntary compliance and enlist the support and participation of all key stakeholders including trade unions, professional and business associations, civil society organisations, traditional, natural and faith-based organisations.

In other to ensure effective compliance, monitoring and enforcement, NESREA has adopted environmental permitting and licensing system; promoting the development of local technologies to aid compliance monitoring and enforcement; pursuing technical assistance to strengthen capacity through exchange of knowledge and experience, and learning of best practices in environmental management from other countries whose policy systems have some similarities with Nigeria. Partnerships and networks have been established with institutions and organisations in Japan and

Singapore. Establishing modern reference laboratories for prompt and reliable analysis of environmental samples for effective compliance monitoring and enforcement.

5.1 Mandate and Powers of NESREA

Part II of the NESREA Act contains the functions of the Agency. The Agency is authorised to enforce compliance with laws, guidelines, policies and standards of environmental matters.³⁴ Such standards would include the federal water quality standards and air quality standards. In carrying out its functions, it is to coordinate and liaise with stakeholders within and outside Nigeria on matters of environmental standards, regulations and enforcement.³⁵ Relevant stakeholders would include the organised private sector, environmental groups at both national and international levels, and other ministries and parastatals.

A notable provision of the NESREA Act is section 7(c), which mandates the Agency to enforce compliance with the provisions of international agreements, protocols, conventions and treaties on the environment and such other agreement as may from time to time come into force.

Nigeria has ratified several international agreements on the environment in matters such as climate change, biodiversity, desertification, forestry, oil and gas, hazardous waste, marine and wildlife and pollution. However, most of these environmental treaties to which Nigeria is a state party are yet to be domesticated. This provision could therefore be interpreted in two ways.

First, it could be interpreted in terms of giving NESREA the authority to enforce such environmental treaties in Nigeria whether or not they have been domesticated in the country. This would be based on the fact that by ratifying the relevant treaty, Nigeria has signified its intention to be bound by the provisions of the treaty. The state can therefore, not shy away from the performance

³⁴ *Ibid*, section 7(a).

³⁵ *Ibid*, section 7(b).

of its treaty obligations under international law. This principle is expressed in Article 26 of the Vienna Convention on the Law of Treaties, which provides that “every treaty in force is binding upon the parties to it and must be performed by them in good faith”. This principle is also known as the Principle of Good Faith (*pacta sunt servanda*). This thinking was reflected in the judgment of the Court of Appeal in the case of *Mojekwu v. Ejikeme*.³⁶ Although the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)³⁷ had not been domesticated in Nigeria, the court referred to it in its judgment and had no difficulty in holding that the ‘*ili ekpe*’ custom was a form of discrimination against women.

Second, the provision could be interpreted in such a way as to limit the enforcement powers of NESREA to those international agreements and treaties on the environment that have specifically been domesticated in Nigeria by an Act of the National Assembly.

Section 12(1) of the 1999 constitution³⁸ provides that: ‘No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly where the treaty deals with matters not included in the Exclusive legislative list, it must in addition be ratified by a majority of all the state Houses of Assembly in the federation.’³⁹

For NESREA to enforce compliance with the provisions of such treaties to which Nigeria is a state party, the relevant treaty would first of all have to be domesticated before it could be said to properly ‘come into force’. Treaties on the environment that have been domesticated in Nigeria include the Convention on International Trade in Endangered Species of Fauna and Flora and Convention on the Prevention of Pollution by the Sea by Oil. There is also the African Charter on Human and Peoples

Rights, containing provisions relevant to environmental protection. NESREA could play a vital role in the domestication process.

Whatever view is taken by the court, in the event of the relevant section being referred for judicial interpretation, section 7c of the NESREA Act has the laudable effect of highlighting the importance and relevance of international environmental law as a veritable source of Nigerian environmental law.

Once ratified, a treaty becomes binding on the state party. Nigeria is therefore under an obligation to domesticate her environmental treaties by incorporating them as part of her national law to ensure effective implementation. This requires political will on the part of both the executive and legislative arms of government to comply with the provisions of Section 12 of the 1999 constitution. However, Nigerian courts are free to take the provisions of ratified treaties into consideration in arriving at decisions involving questions of rights of access to justice in environmental matters, non-discrimination and equality.⁴⁰

The inclusion of ‘oil and gas’ in the list of international treaties on the environment to be enforced by NESREA under section 7(c) is contradictory in light of the provisions of the Act which expressly remove oil and gas from the purview of NESREA. Section 7(h), for example, empowers NESREA to ‘enforce through compliance monitoring, the environmental regulations and standards on noise, air, land, seas, oceans and other water bodies *other than in the oil and gas sector*’ (emphasis added).⁴¹ The position of 7(h) is buttressed by 7(g) which mandates NESREA to enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste *other than in the oil and gas sector*.

The inclusion of ‘oil and gas’ in Section 7(c) introduces some confusion as the other provisions of the Act have the effect of precluding NESREA

36 (2002) 5 NWLR (PT.657), at 402.

37 Nigeria signed and ratified the CEDAW on 23rd April 1984 and 13th June 1985 respectively.

38 Constitution of the Federal Republic of Nigeria, 1999 (hereafter CFRN).

39 CFRN, section 12(3).

40 See M. T. Ladan ‘Towards an Effective African System for Access to Justice in Environmental Matters’ 23-24(2) *A.B.U Law Journal* 10-11 (2005).

41 See also NESREA Act, section 7(g, j, k, l).

from exercising its enforcement powers in the oil and gas sector. The phrase 'oil and gas' should therefore be struck out to bring section 7(c) in conformity with the rest of the Act particularly section 7(g, h, j, k and l) and to give effect to the intention of the legislation which was to clearly remove the oil and gas sector from the authority of NESREA.

The Agency is mandated to enforce compliance with policies, standards, legislation and guidelines on water quality, environmental health and sanitation including pollution abatement.⁴² The establishment of such policies and laws are primarily directed at the prevention of pollution and environmental degradation. It can therefore be implied that the functions of NESREA are directed primarily at the prevention of pollution and environmental harm rather than remedying harm that has already occurred to the environment. Where pollution is already occurring, the Agency is to enforce its abatement.

NESREA is also concerned with the enforcement of the guidelines and legislation on sustainable management of the ecosystem, biodiversity conservation and the development of Nigeria's natural resources.⁴³ This provision confers broad powers on NESREA over a wide range of issues. Guidelines and legislation on the sustainable management of the ecosystem and biodiversity conservation include the Sea Fisheries Act⁴⁴ and the Regulations made pursuant to it, the Endangered Species (Control of International Trade and Traffic) Act,⁴⁵ and the National Park Act.⁴⁶

NESREA likewise possesses oversight functions over hazardous chemicals and waste other than in the oil and gas sector. It is required to enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use handling and disposal of hazardous chemicals and waste. It is also to enforce compliance with legislation on sound chemical management, safer use of pesticide and

disposal of spent packages.⁴⁷ This provision establishes beyond any doubt the authority of NESREA in relation to this important issue. It also has the effect of putting to rest the dispute in the 1990s between the defunct FEPA and the National for Foods and Drugs Administration and Control (NAFDAC) about which agency had oversight/responsibility for the control of hazardous chemicals and wastes.

This provision is also commendable as it takes cognisance of the fact that hazardous chemicals and wastes need to be strictly monitored at every stage. Having been victims of reckless discharge of polluting substances from industries and of the dumping of toxic wastes, Nigerians are becoming increasingly aware of the dangers posed by the careless use and disposal of harmful and toxic products of industrialisation.⁴⁸ There is the need for strict regulation and monitoring of such substances from the point of source to the point of final disposal as handing at every stage poses great risks to the environment and humans. There is an urgent need for environmental protection agencies to take preventive action to forestall environmental harm due to the improper production, sale use, handling and disposal of such substances. There must be strict enforcement of the law in this regard.

The laws to be enforced by NESREA in relation to hazardous chemicals and waste include; the Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and their Disposal,⁴⁹ the Bamako Convention,⁵⁰ the NESREA Act, the Harmful Waste (Special Criminal Provisions etc) Act,⁵¹ and the National Environmental Protection (Management of Solid and Hazardous Wastes) Regulations 1991⁵².

42 *Ibid*, section 7(d).

43 *Ibid*, section 7 (e)

44 LFN 2004, Chapter S4.

45 *Ibid*, Chapter E12.

46 Cap 197 LFN 1990.

47 NESREA Act, section 7(f)(g).

48 Examples are the recurrent oil spills and ecological devastations in the oil producing areas and the Koko incident in June 1988 when 3,888 tons of highly toxic wastes from Italy were dumped on the land of a farmer.

49 (1989) 28 ILM 567.

50 Bamako Convention on the Ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Waste within Africa 1991.

51 Cap. H1 LFN 2004.

52 S. 1:15 of 1991.

NESREA in performance of its functions faces many challenges. It is not possible to properly assess performance of its functions in view of its short lifespan. However the challenges faced by the FEPA (its predecessor) and the Directorate of Petroleum Resources (DPR)⁵³ in the enforcement of laws on hazardous waste management were succinctly highlighted as follows:

Their staff, particularly the inspectorate staff: are handicapped. They perform their jobs under hazardous and unhealthy conditions... their field inspection terms depend on oil companies and industries respectively... a worker on inspection of pollution abatement equipment recently imported and installed was embarrassed when he could not operate the machine due to lack of the necessary equipment that would have enhanced his performance.⁵⁴

It is hoped that NESREA will overcome the obstacles and pitfalls that beset its predecessor Agency in the enforcement of the preventive principle. This cannot be achieved by wishful thinking. There is a need for adequate funding of the new agency to adequately perform its oversight and enforcement duties. There is also the need for trained technical manpower. Hazardous and waste chemical and waste management is a comparatively new field in Nigeria and requires multifaceted technical and expert services.

NESREA is mandated to enforce through compliance monitoring, the environmental regulations and standards on noise, air, land, seas, oceans and other bodies.⁵⁵ NESREA is thus expected to enforce the environmental standards covering water quality, air quality, noise control and

atmospheric protection, this would prevent an alteration of the chemical, physical or biological quality of the environment consistent with the definition of ‘pollution’ under section 37 of the Act. In fulfilling this mandate, it behoves the Agency to establish effective monitoring mechanisms. In line with this, the Agency may establish monitoring stations or networks to locate sources of atmospheric pollution and determine their actual or potential danger.⁵⁶

The Agency possesses supervisory functions over environmental projects funded by donor organisations and support agencies. It is to ensure that such projects adhere to regulations in environmental safety and protections.⁵⁷ With the exception of the oil and gas sector, it is the body responsible for the enforcement of environmental control measures through registration, licensing and permitting systems. The use of licenses and permits is a useful tool for the prevention of environmental harm. This system enables NESREA to set and enforce limits on the concentration of particular pollutants, which are permitted to enter the environment. It regulates for instances the amount of substances released into the water and thus prevents water pollution. The use of licenses and permits means that no one may discharge polluting substances to any of the environmental media without holding a permit or license to do so. In this way, the quality of the environment is preserved and safeguarded. All industrial facilities generating waste would be required to register with the agency and to obtain permits and licenses. For example, the National Environmental Protection Pollution Abatement in Industries and Facilities Generating Wastes Regulations⁵⁸ require industries and other facilities to possess a permit issued by the Agency for the discharge of effluents with constituents beyond permissible limits into public drains and other waters.

In addition to the foregoing, NESREA is required to create public awareness and provide environmental education on sustainable

53 The DPR is responsible for the enforcement of environmental legislations and standards in the oil and gas sector.

54 Nkereuwem Akpan, “Workers’ Health, Safety, Vital to Environmental Protection”, *The Daily Sunray*, 21 October 1993, p. 5.

55 NESREA Act, section 7(h).

56 *Ibid*, section 20(2).

57 *Ibid*, section 7(i).

58 S. 1. 9 of 1991.

environmental management, promote private sector compliance with environmental regulations and publish general scientific or other data resulting from the performance of its functions.⁵⁹

This is an important provision in light of the fact that the use of law as an instrument to obtain compliance has its limits. The mere existence of law (and a regulatory body) does not in itself create or bring about a change in behavior. Clean and healthy Nigeria cannot be obtained solely by statutes. There is the added need for information, environmental education and enlightenment of the public. This is the best form of prevention of environmental harm. There must be instilled in the minds of a sizeable number of the population an unambiguous message clearly urging the need for a healthy environment. This environmental consciousness will enable the law to function better. The persistent use not only of the media but also education and social institutions to force a change of thinking and behavior in conformity with the demands of a healthy environment, will ease the duty of enforcement bodies. It will make it possible for the environmental agencies to succeed and not to collapse under the severe pressure of trying to contain large-scale disobedience of the laws.

Section 7(m) provides a general rounding up clause that enables NESREA to carry out 'such activities as are necessary or expedient for the performance of its functions'.

In furtherance of the mandate of NESREA, it has been conferred with broad powers. These include the power to prohibit processes and use of equipment or technology that undermine environmental quality,⁶⁰ conduct field follow-up of compliance with set standards and take procedures prescribed by law against any violator,⁶¹ and establishment of mobile courts to expeditiously dispense cases of violation of environmental regulations.⁶² The purpose of the mobile courts is to ease pressure on the higher courts and to ensure that cases are treated with dispatch. At present, Rivers, Akwa Ibom and Lagos states operate

mobile environmental sanitation tribunals/courts. The establishment of such courts must be in accordance with the provisions of the constitution or else their legality could be called into question. NESREA is also empowered to conduct public investigations on pollution and the degradation of natural resources and to submit proposals for the evolution and review of existing guidelines, regulations and standards on the environment to the Minister of the Environment for approval.⁶³

It is empowered further to collaborate with other relevant agencies and with the approval of the minister, establish programmes for setting standards and regulations for the prevention and control of pollution and environmental degradation and for restoration and enhancement of the environment and natural resources of Nigeria.⁶⁴ In the exercise of its power, NESREA would be expected to collaborate with the State Environmental Protection Agencies and other bodies whose functions relate to the environment. This would be especially necessary in a situation where there is an overlapping of functions or roles in a federation like Nigeria where the states and Local Government may have

5.2 Enforcement Powers of NESREA

NESREA possesses broad enforcement powers for the purpose of enforcing the Act. Thus an officer of the Agency may at all times enter and search with a warrant issued by a court any premises including land, vehicle, tent, vessel and floating craft, inland water and other structure which he reasonably believes carries out activities or stores goods which contravene environmental standards or legislation for the purpose of conducting inspection, searching and taking samples for analysis. This power to enter and search premises excludes oil and gas facilities such as maritime tankers, barges and floating production, storage offload (FPSO).⁶⁵

To constitute a lawful search, the search has to be carried out with a search warrant issued by the

⁵⁹ NESREA Act, section 7(l).

⁶⁰ *Ibid*, section 8(d).

⁶¹ *Ibid*, section 8(e).

⁶² *Ibid*, section 8(f).

⁶³ *Ibid*, section 8(g)(k).

⁶⁴ *Ibid*, section 8(o).

⁶⁵ *Ibid*, section 30.

federal or state high court. This is in contrast to section 26 of the repealed FEPA Act and section 10 of the Harmful Wastes (special criminal provisions) Act where environmental protection agencies were empowered to search without warrant. The new requirement of a search warrant by the court is in recognition of the right to privacy guaranteed under the constitution.⁶⁶ This involves the recognition of the citizen's right to be secure in their persons, house, premises and efforts against unreasonable and unlawful searches and seizures. Thus, the right of NESREA and other environmental protection bodies to search and seize environmental substances considered harmful is not absolute. It must be based on a reasonable belief that the premises are used for activities or storage of goods, which contravene environmental standards or legislation. The court, in the interest of the 'privacy of the citizens', has construed narrowly the police power of entry, search and seizure. As Lord Denning stated in *Ghani v. Jones*,⁶⁷ the requirement of reasonable grounds for searches and seizures was based on the principles that the individual's privacy and his possession are not to be invaded except for the most compelling reason.⁶⁸

The right to privacy can be constrained by legislation that is reasonably justifiable in a democratic society in the interest of the public.⁶⁹

The requirement of a search warrant also brings the NESREA Act in conformity with the criminal procedure code and the Criminal Procedure Act where a search warrant is required for a search to be lawful.⁷⁰

The NESREA Act in addition gave the Agency powers to examine any article found pursuant to the search to which the Act or regulations apply or which he reasonably believes is capable of being used to the detriment of the environment. The officer of

the Agency may in furtherance of his investigation also take a sample or specimen of any such article, open and examine any container or package and examine and make copies of any book, document or other record found in the course of the research, which he reasonable believes may contain any information relevant to the enforcement of the Act or the regulations. He may also seize and detain any articles by means or in relation to which he reasonable believes the provision of the Act or regulations has been contravened and issue a written receipt for the articles seized.⁷¹

Finally, the officer of the Agency may obtain a court order to suspend activities, seal and close down premises.⁷² Thus, the enforcement powers conferred upon the NESREA Act are far reaching, extending even to the closure of the premises used in contravention of the law. The requirement of a court order would guard against arbitrary exercise of its powers by the Agency. It could however have the effect of causing delay in favour of the polluting facility.

5.3 Rationale for the 2009 - 2011 Environmental Regulations

In order to provide for effective enforcement of environmental standards, regulations, rules, laws, policies and guidelines by the newly established NESREA,⁷³ the Minister of Environment is empowered to make regulations for the general purposes of carrying out or giving full effect to the functions of the Agency under the NESREA Act.⁷⁴

This has led to twenty-four Regulations, which are highlighted below: National Environmental (Wetlands, River Banks and Lake Shores) Regulations, 2009; National Environmental (Watershed, Mountainous, Hilly and Catchment

66 CFRN, section 37.

67 (1970) 1 QB 693, 708.

68 See also O. G. Amokaye, 'Procedural Aspects of Environmental Litigation in Nigeria' Vol. 3 *Nigeria Journal of Private and Comparative Law* 182 (2001).

69 See CFRN, section 37.

70 See Criminal Procedure Code, section 74 and Criminal Procedure Act, section 107.

71 NESREA Act, section 30(l)(b c, d, e, f).

72 *Ibid*, section 30(l)(g).

73 For an analysis of the NESREA Act 2007, see M.T. Ladan, *Law, Cases and Policies on Energy, Mineral Resources, Climate Change, Environment, Water, Maritime and Human Rights in Nigeria* 357-378. (Zaria: Ahmadu Bello University Press, 2009).

74 NESREA Act, section 34.

Areas) Regulations, 2009; National Environmental (Sanitation and Wastes Control) Regulations, 2009; National Environmental (Permitting and Licensing System) Regulations, 2009; National Environmental (Access to Genetic Resources and Benefit Sharing) Regulations, 2009; National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulations, 2009; National Environmental (Ozone Layer Protection) Regulations, 2009; National Environmental (Food, Beverages and Tobacco Sector) Regulations, 2009; National Environmental (Textile, Wearing Apparel, Leather and Footwear Industry) Regulations, 2009; National Environmental (Noise Standards and Control) Regulations, 2009; National Environmental (Chemical, Pharmaceutical, Soap and Detergent Manufacturing Industries) Regulations, 2009; National Environmental (Standards for Telecommunications and Broadcasting Facilities) Regulations, 2011; National Environmental (Soil Erosion and Flood Control) Regulations, 2011; National Environmental (Desertification Control and Drought Mitigation) Regulations, 2011; National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries Sector) Regulations, 2011; National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2011; National Environmental (Protection of Endangered Species in International Trade) Regulations, 2011; National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, 2011; National Environmental (Coastal and Marine Areas Protection) Regulations, 2011; National Environmental (Construction Sector) Regulations, 2011; National Environmental (Control of Vehicular Emissions from Petrol and Diesel Engines) Regulations, 2011; National Environmental (Non-Metallic Minerals Manufacturing Industries Sector) Regulations, 2011; National Environmental (Surface and Groundwater Quality Control) Regulations, 2011; and National Environmental (Electrical/Electronic Sector) Regulations, 2011.⁷⁵

The fact is that the twenty-four Regulations sought to address all the four broad environmental problems being accorded highest priority in Nigeria namely

ensuring sustainable use of natural resources and adoption of sustainable and environmental friendly practices in both industrial and general sanitation nationwide. Eleven of these regulations are discussed hereinbelow.

(i) National Environmental (Wetlands, River Banks and Lake Shores) Regulations, 2009⁷⁶

In terms of structure and content, these Regulations have been divided into three parts and five schedules. Part one deals with regulations of wetlands and wetland resources in Nigeria.⁷⁷ The various regulations under this part address: matters relating to the application, objectives⁷⁸ and principles⁷⁹ of this part of the Regulations; an inventory of wetlands,⁸⁰ the furnishing of particulars by state Governments, the role of local governments, the declaration of a specifically protected area, control of use of wetlands, the wetland resource use permit system,⁸¹ and implied covenant and duty of land owners and users.

Part two deals with regulation of river banks and lake shores in Nigeria and provides for the following matters⁸²: the application, objectives⁸³ and

76 Federal Republic of Nigeria, Abuja, Regulations No. 26 of 2009, Official Gazette, Vol. 96, No. 58 dated 2nd October, 2009.

77 Regulations 1-14.

78 Under Regulation 2, the objectives of Part 1 include, among others, providing for the conservation and wise use of wetlands and their resources in Nigeria; ensuring the sustainable use of wetlands for ecological and tourism purposes for the common good of all citizens.

79 Under Regulation 3, the following principles, among others, shall be observed in regulating all wetlands in Nigeria: a) wetland resources shall be utilised in a sustainable manner compatible with the continued presence of wetlands and their hydrological functions and services; b) the EIA, shall be conducted in accordance with the relevant laws on all activities in wetlands likely to have adverse effects on the wetlands.

80 See First Schedule to Regulation 4.

81 This term is defined under Regulation 33 as: "a permit granted to a person, community or organisation to make extractive utilisation of wetlands and other non-extractive uses such as tourism and cultural activities in accordance with the grant under these Regulations."

82 Regulations 15-27.

83 Regulation 16.

75 See below for a brief discussion of the eleven regulations.

principles⁸⁴ of this Regulation; identification of river banks and lake shores,⁸⁵ registration of degraded river banks and lake shores,⁸⁶ the permit system for river bank or lake shore use, duties of the Agency and private landowners as well as the users, and protection zones for river banks and lake shores (whether or not used for purposes of tourism in Nigeria).

Part three covers miscellaneous provisions relating to EIA, environmental restoration orders, offences and penalties, appeals and interpretation as well as citation.⁸⁷ The schedules provide the parameters for conservation status of wetlands, application forms for permits to carry out a regulated activity in a wetland, river bank and lake shore, and a register of river banks and lake shores in Nigeria.⁸⁸

(ii) National Environmental (Watershed, Mountainous, Hilly and Catchment Areas) Regulations, 2009⁸⁹

These Regulations set out to achieve the following objectives:⁹⁰

- Every land owner or occupier, while utilizing land in a watershed, mountainous, hilly or catchment area shall: observe and respect the carrying capacity of the land; carry out measures for soil conservation and for the protection of water catchment areas; use the best available environmentally friendly technologies to minimise significant risks and damage to ecological and landscape aspects;
- The Agency shall, with respect to watersheds, mountainous, hilly and catchment areas in a particular environment, control activities, which

are inconsistent with good land management practices especially in areas prone to landslides, floods, drought, desertification, siltation, heavy sediment loads, falling rocks, fires and damage by wind.

These Regulations are structured into three parts and three schedules. The first part provides for the regulations on watersheds,⁹¹ mountainous,⁹² hilly⁹³ and catchment areas⁹⁴ in Nigeria. Regulations 1-9 under this part cover matters relating to the objectives, identification of major watersheds, registration and restriction on the use of watersheds, mountainous and hilly areas; delineation of roles, prevention of fires in watersheds, mountainous and hilly areas; land use mapping,⁹⁵ afforestation and reforestation as well as grazing of livestock.

The second part deals with miscellaneous provisions relating to offences, penalties and appeals.⁹⁶ The third part of this Regulation covers general matters of interpretation, citation and schedules.⁹⁷ The schedules deal with request and application formats

84 Regulation 17.

85 Regulation 18.

86 See the Fourth and Fifth Schedules to Regulations 19, 25 – 26 for the 47 rivers and 4 lakes listed.

87 Regulations 28-34.

88 See First to Fifth Schedules to Regulations 4, 8, 9, 19-20 and 25-26.

89 Regulations No. 27 of 2009, Vol. 96, No. 59.

90 Regulation 1.

91 Under Regulation 12, the term ‘watershed’ means the total land area that drains directly or indirectly into a particular stream or river.

92 Under Regulation 12, the term ‘watershed’ means the total land area that drains directly or indirectly into a particular stream or river. ‘Mountain area’ means an area with steep elevation with a restricted summit area projecting 600 metres or more above the surrounding land.

93 Under Regulation 12, the term ‘watershed’ means the total land area that drains directly or indirectly into a particular stream or river. ‘Hilly area’ means an area with a natural elevation of land of the local area and a well defined outline higher than a rise and lower than a mountain usually not less than 300 metres but not up to 600 metres above the surrounding land.

94 Under Regulation 12, the term ‘watershed’ means the total land area that drains directly or indirectly into a particular stream or river. ‘Catchment area’ means an area from which rainfall flows into a river, stream, lake, reservoir or other water bodies including the tributaries and the entire basin draining into the water body.

95 Under Regulation 12, the term ‘watershed’ means the total land area that drains directly or indirectly into a particular stream or river. ‘Land use mapping’ means a map showing the human use to which land is put at a given time; categories could be pasture, natural forest, agricultural land, waste land and so on.

96 Regulations 10-11.

97 Regulations 12-14.

for registration and permits to carry out activities in watersheds, mountainous, hilly and catchment areas.

(iii) National Environmental (Sanitation and Wastes Control) Regulations, 2009⁹⁸

In terms of structure and contents, these Regulations are divided into seven parts with eighteen schedules.

Under part one on preliminary provisions relating to application and object, the purpose of these Regulations is the adoption of sustainable and environmentally friendly practices in sanitation and waste management in order to minimise pollution.⁹⁹ The Regulations apply to issues in environmental sanitation, particularly food, market and industrial sanitation; and all categories of wastes generated therein, especially, community, end-of-life, hazardous, health care, industrial, radioactive, leaf and yard, solid and packaging wastes^{100,101}

Part two deals with environmental sanitation matters relating to general cleanliness, duties of owners and occupants of properties and premises, citizens' obligations, extended producer's responsibility, the polluter pays principle and banned pesticides or chemicals for domestic fumigation.¹⁰²

Part three provides for detailed provisions on the control of solid waste, effluent discharge, and hazardous and health care wastes.¹⁰³

The Agency shall ensure the implementation of the provisions of the National Environmental Sanitation Policy and Guidelines of 2005 at all levels of government;¹⁰⁴ enforce compliance with the provisions of these Regulations; ensure compliance with conditions of the permits issued as contained in the relevant schedules, part four provides for institutional roles and responsibilities of the Federal,

state and local governments by emphasising the need for strategic cooperation and collaboration.¹⁰⁵

Part five seeks to ensure effective implementation of these Regulations and to promote stakeholder involvement in environmental sanitation through the public and private sector strategic alliance on approved intervention programmes; enforcement action and notices, offences and penalties.¹⁰⁶

Part six provides that, as part of the Agency's Strategic Alliance Programme on Environmental Sanitation and Waste Control, all states and local governments shall ensure that their programmes conform to the Agency's intervention programmes in this area promoting proper harmonisation and implementation as contained in schedule 8 to these Regulations.¹⁰⁷

While part seven defines all the relevant key terms in the Regulations, the schedules provide for: (a) guidelines for food handlers, recommended approved number of toilets, septic tank construction, integrated pest and vector control, waste collection and transportation vehicle, extended producers responsibility programme, permissible limits for waste water discharge, waste water treatment facility, labeling and packaging of hazardous wastes containers; and (b) quality standards for sources of domestic water; lists of banned pesticides; materials amendable to extended producers responsibility programme; standards for the disposal of industrial effluents; types of hazardous waste; list of hazardous characteristics under the UN Code; categories and treatment methods of, and national colour code for, health care waste.¹⁰⁸

(iv) National Environmental (Permitting and Licensing System) Regulations, 2009¹⁰⁹

In terms of structure and content, these Regulations have been divided into four parts and one schedule.

⁹⁸ Regulations No. 28 of 2009, Vol. 96, No. 60.

⁹⁹ Regulation 2.

¹⁰⁰ For the definitions of all categories of wastes listed, see Regulation 107, part 7.

¹⁰¹ Regulation 1.

¹⁰² Regulations 3-22.

¹⁰³ Regulations 23-62.

¹⁰⁴ See Regulation 63 and also see Ladan, note 1 above, at 481.

¹⁰⁵ Regulations 63-65.

¹⁰⁶ Regulations 66-104.

¹⁰⁷ Regulation 105.

¹⁰⁸ Part 7 Regulations 106; also see Schedules 1-18 to Regulations 6, 9, 10, 22, 25-26, 32, 35, 41-42, 45, 54, 57-58, 77-79, 88 and 90.

¹⁰⁹ Federal Republic of Nigeria, Abuja, Regulations No. 29 of 2009, Official Gazette, Vol. 96, No. 61 dated 7th October 2009.

The purpose of the thirty-eight Regulations¹¹⁰ is, among others, to enable consistent application of environmental laws, regulations and standards in all sectors of the economy and geographical regions.¹¹¹ Part one deals with matters relating to: - mode of applicant, information accompanying application, chargeable permit fees, acknowledgement of application, assessment of application, approval or refusal of permit, duration of application, notice of approval of permit, reasons for refusal, appeal by applicant and duration of appeal. Applicants¹¹² operating any facility¹¹³ for effluent discharge permit must comply with the application¹¹⁴ procedure laid down in part one.

Part two includes regulations relating to the procedure for amendment and renewal of permit, submission of application for amendment and attachment of receipt of payment to application for amendment.¹¹⁵

Under part three, regulations 19-32 deal with matters relating to suspension and cancellation of permit: procedure and grounds for suspension of permit, notification of and representation by, the permit holder; decision of the agency,¹¹⁶ orders regarding suspension of permit, review of suspension of permit order; procedure and grounds for cancellation of permit; notice and prescribed manner of proceedings; other terms and conditions; notice of cancellation of permits; and orders.

Part four covers miscellaneous provisions relating to re-hearing and appeals, review or reconsideration of decision, duration to reconsider, withdrawal of

application for re-hearing or appeal, re-application, interpretation and citation.¹¹⁷

(v) National Environmental (Access to Genetic Resources and Benefit Sharing) Regulations, 2009¹¹⁸

These Regulations are structured into five parts and five schedules. The first part provides for conservation monitoring. This part covers matters relating to environmental impact assessment, conservation of threatened species,¹¹⁹ inventory¹²⁰ of biological diversity,¹²¹ and monitoring of status.¹²²

The second part deals with access¹²³ to genetic resources.¹²⁴ Regulations 5-16 cover matters relating to application for access permit,¹²⁵ prior informed consent,¹²⁶ material transfer

110 Regulations 39-40 deal with interpretation and citation.

111 See Regulation 1.

112 The term ‘applicant’ is defined under Regulation 39 to “include an individual, a company, partnership or any association of individuals who submits application to the agency”.

113 The term ‘facility’ means “industry, factory or any physical set up or equipment for manufacturing, production and processing, including treatment plants”.

114 The term ‘application’ means “a request for the issuance of a permit, or an amendment of a permit under these Regulations”.

115 Regulations 13-18.

116 Agency refers to the National Environmental Standards and Regulations Enforcement Agency established under section 1 of the NESREA Act 2007.

117 Regulations 33-40.

118 Federal Republic of Nigeria, Abuja, Regulations No. 30 of 2009, Official Gazette, Vol. 96, No. 62 dated 9th October, 2009.

119 Under Regulation 25, the term “threatened species” means any species of plant or animal which is likely to become an endangered species within the foreseeable future throughout all or significant portion of its range”.

120 The term ‘inventory’ means “a detailed list, report or record of resources, or the process of making such a list, report or record”. See Regulation 25.

121 The term ‘biological diversity’ means “the variability among living organisms from all sources of ecosystems and the ecological complexes of which they are part; this includes diversity within species between species and of ecosystems”. See Regulation 25.

122 Regulations 1-4.

123 The term ‘access’ means “obtaining, processing and using genetic resources conserved, whether derived products and where applicable, intangible components, for purposes of research, bio-prospecting, conservation, industrial application or commercial use”. See Regulation 25.

124 The term ‘genetic resources’ means “genetic materials of actual or potential value”, while genetic materials “means any genetic material of plant, animal, microbial or other origin containing functional units of heredity”. See Regulation 25.

125 The term ‘access permit’ means “a permit that allows a person to access genetic resources issued under Part II to these Regulations.

126 The term ‘prior informed consent’ means “the consent given to the applicant for access permit by the academic or research institute or relevant agency or the concerned local community based on an access application containing a complete and accurate access information to a person seeking access to a specified genetic resource or traditional knowledge”. See Regulation 25.

agreement,¹²⁷ notification of application, examination of documents, materials, notification of application, determination of application, access permit form, communication of decision, validity and renewal of access permit, terms and conditions of access permit, suspension and cancellation of access permit and register of access permits.

Under part three dealing with benefit sharing,¹²⁸ regulations 17-19 cover matters relating to application of this part, entitlements to benefits sharing and traditional¹²⁹ and community¹³⁰ rights.

The fourth part provides for miscellaneous matters: confidentiality, transition, offences and penalties. Part five deals with the following general matters: - application or exemption, interpretation and citation.¹³¹

The schedules deal with the form and contents of an application for an access permit; guidelines on form and contents of prior informed consent; guidelines on form and contents of materials transfer agreement; access permit form and application form for renewal of an access permit.

(vi) National Environmental (Mining and Processing Of Coal, Ores and Industrial Minerals) Regulations 2009¹³²

The purpose of these Regulations is to minimise pollution from the Mining and Processing of Coal,

Ores and Industrial Minerals.¹³³ These Regulations are structured into thirteen parts and thirteen schedules. The first part provides for preliminary issues such as purpose, planning and best practices.¹³⁴ Regulation 2 requires new development in the Mining and processing techniques to apply up-to-date, efficient cleaner production technologies to minimise pollution to the highest degree practicable.

The second part covers matters relating to general permits, monitoring pollution, equity, community relations, control, mitigation and enforcement as well as incentives.¹³⁵ Part three deals with treatment of effluent, management of oil station and fuel dumpsites, permits, polluter pays principle and emergency response plan.¹³⁶ Part four deals with matters relating to sample collection, preservation and analysis and dispersion train.¹³⁷ Part five covers matter relating to industrial wastewater monitoring and reporting requirements.¹³⁸ Matters relating to duty of the Agency to ensure compliance with conditions, enforcement notices and reminder, mode of delivery and suspension notice are covered by part six.¹³⁹

Parts seven and eight deal with offences and penalty under effluent limitations.¹⁴⁰ Emission limitations, noise pollution and control, guidelines and codes of practice, audiometric testing and compliance verification as well as interpretations and citations are dealt with in parts 9 to 13.¹⁴¹

The schedules deal with effluent limitation standards, format for annual effluent monitoring report, best practices, polluter pays principle, emergency response plan, monthly effluent discharge monitoring report format, incident report form, guidelines for preparing environmental management plan, fugitive emission sources, emission quality standards for conventional

127 The term 'material transfer agreement' means "an agreement negotiated between the holder of an access permit and a relevant agency or community on access to genetic resources and benefit sharing". See Regulation 25.

128 The term 'benefit sharing' means "the sharing of benefits that accrue from the utilisation of genetic resources" See Regulation 25.

129 The term 'traditional' means "a body of pattern of behavior, practices and beliefs that are valued by a traditional or indigenous community from generation to generation". See Regulation 25.

130 The term 'community' means "a group of people having a long standing social organisation that binds them together whether in a defined area or howsoever otherwise and shall include indigenous peoples, local populations and shall where appropriate also include any organisation duly registered under the law of Nigeria to represent the interest of such group". See Regulation 25.

131 Regulations 24-26.

132 Federal Republic of Nigeria, Abuja, Regulations No. 31 of 2009, Official Gazette, Vol. 96, No. 63 dated 12th October, 2009.

133 Regulation 1.

134 See Regulations 1-3.

135 Regulations 4-9.

136 Regulations 10-14.

137 Regulations 15-17.

138 Regulations 18-22.

139 Regulations 23-27.

140 Regulations 28-29.

141 Regulations 30-48.

pollutants, emission limit for specific pollutants, operating procedures/measures for fugitive emission control plan and noise standards or permissible noise exposure levels.

(vii) National Environmental (Ozone Layer Protection) Regulations, 2009¹⁴²

These Regulations are divided into parts and six schedules. The first part deals with the prohibition of ozone¹⁴³ depleting substance¹⁴⁴ and release, working with an ozone depleting substance, fire protection equipment and pressurised containers, sale and labeling of ozone depleting substances, flexible and rigid insulation foams, packaging and wrapping.¹⁴⁵

Regulation 11 under part two deals with the powers and responsibilities of the Agency. Part three deals with matters relating to permit conditions, application fees for permit, bi-annual report by permit holder, permit numbers to be shown on records, offence for handling ozone depleting substance refrigerant, possession or trading in refrigerant, offence for possessing halon,¹⁴⁶ refrigerant destruction facilities, application for halon special permit, application for RAC¹⁴⁷ industry permit general, offences and penalty, interpretation and citation.¹⁴⁸

The schedules deal with list of permits and entitlements, categories of pre-charged equipment,

list of ozone depleting substances, requirements for bi-annual report by permit holders, application for permit in respect of RAC and phase out deadline for controlled substances.

(viii) National Environmental (Food, Beverages and Tobacco Sector) Regulations, 2009¹⁴⁹

In terms of structure and contents, these Regulations have been divided into nine parts and thirteen schedules. Part one deals with matters relating to environmental governance,¹⁵⁰ planning, emergency response plan, installation of anti-pollution equipment, polluter pays principle, best practices, pollution control organisational system, buy back or extended products stewardship programme, chemical usage, banned or restricted chemicals, permit, management of oil station and fuel dumps site, equity, community relations, effluent limitation standard, restriction on the release of toxic effluent, treatment of effluent, sludge¹⁵¹ disposal standards, emission and emission control, treatment technologies, noise standards and abatement, hearing conservation program and noise monitoring.¹⁵²

Part two deals with sampling procedures in relation to collection and analysis of samples; spot and composite sampling¹⁵³ for physical or chemical parameters; sampling for licence classification, microbiological analysis, air analysis and for other parameters as well as noise measurements.¹⁵⁴ Parts

142 Federal Republic of Nigeria, Abuja, Regulations No. 32 of 2009, Official Gazette, Vol. 96, No. 64 dated 13th October, 2009.

143 The term 'ozone' is defined under Regulation 23 as "the layer of gas containing three atoms of oxygen formed at the stratosphere within 10 to 50km above the surface of the earth which has the ability to filter out a very high proportion of the incoming ultra violet radiation and is essential for the very survival of life on earth".

144 The term 'depleting substance' is defined as "a substance or mixture of substances listed in Schedule 3 to these Regulations, including their isomers". See Regulation 23.

145 Regulations 1-10.

146 The term 'halon' is defined under Regulation 23 as "a bromofluorocarbon listed in Schedule 3 to these Regulations.

147 The term 'RAC' is defined as "refrigeration and air conditioning equipment, used for the cooling or heating of anything, that uses a refrigerant".

148 Regulations 12-24.

149 Federal Republic of Nigeria, Abuja, Regulations No. 33 of 2009, Official Gazette, Vol. 96, No. 65 dated 14th October, 2009.

150 The purpose of these Regulations is to prevent and minimise pollution from all operations and ancillary activities of Food, Beverages and Tobacco Companies to the Nigerian Environment. See Regulation 1.

151 This term is defined under Regulation 54 as "liquid or solid-sediments and other residue from a municipal sewage collection and treatment system and liquid or solid and other septic from septic or holding tank pumping from commercial, industrial or residual establishments".

152 Regulations 1-25.

153 The term "spot sampling" has been defined under Regulation 54 as "sample of liquid or sediments obtained at a specific depth inside a tank using a bottle. Spot samples are analyzed to determine the gravity of the oil, base sediment and water of the fluid in the tank".

154 Regulations 26-33.

three to nine cover the procedures for licensing and permit; industrial effluent or air emission monitoring and reporting requirements; duty of the Agency to ensure compliance with conditions or enforce¹⁵⁵ the regulations; nature and scope of offences¹⁵⁶ and penalty;¹⁵⁷ incentives;¹⁵⁸ interpretation¹⁵⁹ and citation.

Finally, the schedules provide for: effluent limitation standards for food, beverages or tobacco sector; sludge disposal permissible limit; air emission guidelines for food, beverages and tobacco sector; soil quality standards for food, beverages and tobacco sector; permissible noise exposure levels/standards; best practices; list of banned and restricted chemicals; guide template for emergency procedures in industry; guideline for preparing environmental management plan; guidelines for consumer products stewardship programmes; organisational system and the functions of pollution control manager(s); NESREA compliance flag award and monthly discharge monitoring report.

(ix) National Environmental (Textile, Wearing Apparel, Leather and Footwear Industry) Regulations, 2009¹⁶⁰

These Regulations are structured into nine parts and fifteen schedules. Part one deals with the following matters: environmental governance,¹⁶¹ planning,¹⁶²

emergency response plan, installation of anti-pollution equipment, polluter pays principles, best practices, minimisation of wastes, pollution control organisational system, chemical usage, banned and restricted chemicals, permits, management of chemicals, oil station and fuel dump site, equity, community relations, effluent limitation standard, restriction on the release of toxic effluent, treatment of effluent, sludge disposal, emission standards, priority air pollutants treatment technologies (pollution abatement) for air emissions, activities resulting in atmospheric emissions, noise standards, noise abatement, hearing conservation program and noise monitoring.¹⁶³

Part two provides for the following sampling procedures: collection and analysis of samples,¹⁶⁴ spot and composite sampling for physical or chemical parameters, sampling for licence classification, microbiological and air analysis, other parameters and noise measurements.¹⁶⁵

Under parts three to nine, the following matters are dealt with: procedure for licensing and permitting; industrial effluent, air emission monitoring and reporting requirements; enforcement duty of the Agency; offences and penalty; incentives and interpretations.

The schedules cover the following matters: effluent limitation standards for textiles, wearing apparel, tanning and leather finishing sectors; sludge disposal permissible limit; waste generation in textile manufacturing facilities; activities requiring atmospheric emission licence; air emission guidelines and soil quality standards for textile, wearing apparel, leather and footwear industry; noise standards and best practices; list of banned and restricted chemicals; draft guide template for emergency procedures in industry; organisational system and the functions of pollution control manager(s); NESREA compliance flag award and monthly discharge monitoring report; guideline for preparing environmental management plan and certification statement.

155 This includes enforcement notices and reminder as well as a suspension of permit under Regulations 41-43.

156 The offences under Regulations 44-48 include: contravention of permit condition, false statement, discharge of effluent beyond permissible level.

157 See Regulation 49 for details.

158 Part 8, Regulations 50-53 provide for four types of incentives.

159 See Regulation 54.

160 Federal Republic of Nigeria, Abuja, Regulations No. 34 of 2009, Official Gazette, Vol. 96, No. 66 dated 16th October, 2009.

161 Under Regulation 1, the purpose of these Regulations is to prevent and minimise pollution from all operations and ancillary activities from the above named industry to the Nigerian Environment.

162 Regulation 2 is to the effect that every facility shall submit to the Agency: a) an Environmental Impact Statement for new industries and major developmental projects before commencement of operations; b) an Environmental Audit Report for existing industries every 3 years; and c) an Environmental Management Plan as contained in Schedule XIV.

163 Regulations 1-26.

164 Regulation 56 defines a 'Grab Sample' as "a single sample or measurement taken at a specific time or over a short period of time as feasible".

165 Regulations 27 to 34.

(x) National Environmental (Noise Standards and Control) Regulations, 2009¹⁶⁶

The purpose of these Regulations is to ensure maintenance of a healthy environment for all people in Nigeria, the tranquility of their surroundings and their psychological well being by regulating noise levels and generally, to elevate the standard of living of the people by a) prescribing the maximum permissible noise levels a facility or activity to which a person may be exposed; b) providing for the control of noise and for mitigating measures for the reduction of noise; c) and for giving effect to the provisions of section 22 of the NESREA Act.¹⁶⁷

These Regulations are structured into five parts and two schedules¹⁶⁸. Parts 1 and 2 deal with permissible noise levels; noise¹⁶⁹ in excess of permissible levels; duty to control and mitigate noise level.¹⁷⁰ Parts 3 to 5 provide for matters relating to permit and its revocation for noise in excess of permissible levels; enforcement matters covering general action for noise, noise control orders, power to confiscate machinery, restitution of property, guidelines for noise from plant or machinery and codes of practice; general matters relating to exclusion from liability, offences, interpretation¹⁷¹ and citation.¹⁷²

166 Federal Republic of Nigeria, Abuja, Regulations No. 35 of 2009, Official Gazette, Vol. 96, No. 67 dated 19th October 2009.

167 See Regulation 1.

168 Schedule 1 deals with maximum permissible noise levels: - for general environment, from a factory or workshop, from impulsive noise, from construction site, for public announcement system or device, for places of entertainment and areas of workshop, for accelerating vehicles and from mines and quarries. Schedule 2 provides for noise improvement notice format.

169 Regulation 18 defines the term 'Noise' as any unwanted and annoying sound that is intrinsically objectionable to human beings or which can have or is likely to have an adverse effect on human health or the environment.

170 Regulations 2-6.

171 Regulation 18 defines several relevant terms such as: 'Noise pollution' means the same as "excessive noise in these regulations; 'Disturbance' means any act or instance of interrupting rest, calm, attention or quiet of another.

172 See Regulations 7-19.

(xi) National Environmental (Chemical, Pharmaceutical, Soap and Detergent Manufacturing Industries) Regulations, 2009¹⁷³

These Regulations are divided into nine parts and fourteen schedules. Part one¹⁷⁴ deals with matters relating to the following: purpose¹⁷⁵ of regulations, planning, emergency response plan, installation of anti-pollution equipment, polluter pays principle, best practices, minimisation of wastes, pollution control organisational system, buy back or extended products stewardship programme, chemical usage, banned or restricted chemicals, permit, management of chemicals, oil and fuel dump site, equity, community relations, effluent limitations standard, restriction on the release of toxic effluent, treatment of effluent, sludge disposal, emission standards, priority air pollutants; treatment technologies for air emissions, listing of activities resulting in atmospheric emissions, noise standards an abatement, hearing conservation program and monitoring.

Part two deals with sampling procedures in respect of collection and analysis of samples; spot and composite¹⁷⁶ sampling for physical or chemical parameters; sampling for licence classification microbiological analysis and for other parameters; air sampling analysis and noise measurements.¹⁷⁷ Parts 3 to 9 provide for matters relating to procedures for licensing and permit; industrial effluent or air emission monitoring and reporting; enforcement, offences and penalty as well as incentives and interpretations.¹⁷⁸

The schedules cover: effluent limitation standards, sludge disposal permissible limit; gaseous emissions guidelines for pharmaceutical, petroleum and chemical industries; soil quality and noise standards;

173 Federal Republic of Nigeria, Abuja, Regulations No. 36 of 2009, Official Gazette, Vol. 96, No. 68 dated 20th October 2009.

174 See Regulations 1-27.

175 By virtue of Regulation 1, the purpose of these regulations is to prevent and minimise pollution from all operations and ancillary activities from the chemicals, pharmaceuticals, soap and detergent manufacturing sector in the Nigerian environment.

176 It is defined under Regulation 54 as "a representative mixture of several different samples (usually bulk sample)".

177 See Regulations 28-35.

178 See Regulations 36-55.

best practices; banned and restricted chemicals; guide template for emergency procedures in industry; guidelines for preparing environmental management plan an consumer products stewardship programme; activities requiring atmospheric emission licence; organisational system for pollution control; NESREA compliance flag awards and monthly discharge monitoring report.

The title and purpose of the remaining regulations are listed below:

(xii) National Environmental (Standards for Telecommunications and Broadcasting Facilities) Regulations, 2011, S.I. No. 11 Gazette No. 38, Vol. 98 of 29th April, 2011.

Purpose: to protect the environmental and human health; ensure safety and general welfare; eliminate or minimise public and private losses due to activities of the telecommunications and broadcast industry.

(xiii) National Environmental (Soil Erosion and Flood Control) Regulations, 2011, S.I. No. 12, Gazette No 39, Vol. 98 of 2nd May 2011.

Purpose: to protect human life and the environment; minimise losses due to flood and erosion and their effects on vulnerable areas by controlling earth-disturbing activities.

(xiv) National Environmental (Desertification Control and Drought Mitigation) Regulations, 2011, S.I. No. 13 Gazette No. 40. Vol. 98 of 3rd May, 2011.

Purpose: to provide an effective and pragmatic regulatory framework for the sustainable use of all areas already affected by desertification and the protection of vulnerable lands.

(xv) National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries Sector) Regulations, 2011, S.I. No.14, Gazette No. 41. Vol. 98 of 4th May, 2011.

Purpose: to prevent and minimise pollution from all operations and ancillary activities of the sector in the Nigerian environment, especially the release of priority air pollutants.

(xvi) National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2011, S.I. No. 15 Gazette No 42. Vol. 98 of 6th May, 2011.

Purpose: to prevent and minimise the destruction of ecosystem through fire outbreak and burning of any materials that may affect the health of the ecosystem through the emission of hazardous air pollutants.

(xvii) National Environmental (Protection of Endangered Species in International Trade) Regulations, 2011, S.I. No. 15 Gazette No. 42. Vol. 98 of 6th May, 2011.

Purpose: to protect endangered species of fauna and flora; and prevent their extinction by controlling international trade in their living specimens, parts and derivatives.

(xviii) National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, 2011, S.I. No. 17, Gazette No 44, Vol. 98 of 10th May, 2011.

Purpose: to prevent and minimise pollution from all operations and ancillary activities of the domestic and industrial plastic, rubber and foam sector to the Nigerian environment including the control of volatile organic compounds.

(xix) National Environmental (Coastal and Marine Areas Protection) Regulations, 2011, S.I. No. 18 Gazette No 45, Vol. 98 of 13th May 2011.

Purpose: to provide the regulatory framework for preserving the natural ecological conditions of the estuarine system, barrier islands system and the beaches so as to safeguard and perpetuate their natural productivity and their biological, economic and aesthetic values.

(xx) **National Environmental (Construction Sector) Regulations, 2011**, S.I. No. 19, Gazette No. 46, Vol. 98 of 17th May, 2011.

Purpose: to prevent and minimise pollution from construction, decommissioning and demolition activities to the Nigerian Environment.

(xxi) **National Environmental (Control of Vehicular Emissions from Petrol and Diesel Engines) Regulations, 2011**, S.I.No. 20, Gazette No 47, Vol. 98 of 17th May, 2011.

Purpose: to control vehicular emission; and restore, preserve and improve air quality by among others, ensuring regular emission testing and maintenance of automobiles operating the road ways.

(xxii) **National Environmental (Non-Metallic Minerals Manufacturing Industries Sector) Regulations, 2011**, S.I. No 21 Gazette No. 48, Vol. 98 of 23rd May, 2011.

Purpose: to prevent and minimise pollution from all operations and ancillary activities of the non-metallic minerals manufacturing sector to the Nigerian environment.

(xxiii) **National Environmental (Surface and Groundwater Quality Control) Regulations, 2011**, S.I. No. 22, Gazette No. 49, Vol. 98 of 24th May, 2011.

Purpose: to restore, enhance and preserve the physical, chemical and biological integrity of the nation's surface and ground waters; and to maintain existing water uses.

(xxiv) **National Environmental (Electrical/Electronic Sector) Regulations, 2011**, S.I. No 23 Gazette No. 50, Vol. 98 of 25th May, 2011.

Purpose: to prevent and minimise pollution from all operations and ancillary activities of the

electrical/electronic sector. This Regulation covers both new and used electrical/electronic equipment (EEE/UEEE).

CONCLUSION

Having examined the justification for the establishment, mandate and powers of NESREA as well as the rationale behind the making of the twenty four regulations, it can be concluded that the new initiatives brought about by the NESREA Act are substantive, particularly with regard to its enforcement roles and provision of more realistic monetary sanctions that can help prevent destructive environmental practices in Nigeria.

Having learnt lessons from the major drawbacks of the defunct agency (FEPA), there is an identified major shift towards the enforcement of environmental standards and regulations as opposed to just creation of standards and regulations. Further, specific offences were created for breach of each aspect of the environmental standards, namely, air, water and land; prescribed penalties for violation of environmental standards were reviewed upwards as more realistic monetary fines can now be imposed; and the power of NESREA to enforce multilateral environmental treaties to which Nigeria is a party and to prohibit processes and use of equipment or technology that undermine environmental quality was introduced.

It is evident from the above review that protection of the environment and management of natural resources is a key priority for sustainable development in Nigeria. Effective implementation of both the NESREA Act and its regulations requires necessary capacity building of the agency in terms of human, technical, material and financial capacity. It further requires effective cooperation and collaboration of various stakeholders in the protection of the environment and management of natural resources in Nigeria.

APPENDIX 1

BRIEF DESCRIPTION OF THE FOUR BROAD ENVIRONMENTAL PROBLEMS/ CHALLENGES BEING ACCORDED HIGHEST PRIORITY AT PRESENT IN NIGERIA

Ensuring Sustainable Industrial Production

Most industries, with the exception of the petroleum industry, do not have waste treatment facilities to deal with the solid waste, effluent and air emissions they generate. The few treatment plants that do exist are outdated; not functioning effectively as a result of overuse and a lack of proper servicing; and unable to cope with the vast amounts and types of industrial waste, effluents and emissions passing through them. The environmental problems associated with Nigeria's industrial sector therefore include: air pollution (gas or particle emissions), especially from cement, steel and asbestos industries; land and water pollution (effluent discharged onto land and into water has become a great concern particularly in view of the epidemic tendencies of such pollution) especially from the pharmaceutical, chemical, textile, food processing and oil industries; and noise pollution.

Preventing and Reversing Desertification

Nigeria has lost about 351,000 km² of its land to the desert, which is estimated to be advancing at a rate of 0.6 km² per year. Desertification is most prevalent in northern Nigeria, where entire settlements, and in some cases major access roads, have recently been buried by encroaching sand dunes.

Managing Forest, Wildlife and Natural Resources

Deforestation and loss of wildlife resources are problems throughout Nigeria. Deforestation affects timber production and the production of associated products such as medicines, food and paper. A ban was imposed on the export of wood obtained from natural forest in 1976. However, much of the current deforestation is the result of wood consumed for domestic purposes. The depletion of Nigeria's wildlife is an additional concern. Hunting is a major contributor to its demise and there is a dire need to

protect wildlife and biodiversity by specifically providing for the protection of certain species and areas that are of scientific, recreational or aesthetic value.

Combating Floods and Erosion

Nigeria's coastal and inland soil reserves have been greatly depleted by flooding and resultant erosion, which has had severe financial consequences for many local communities. Research into methods of controlling floods and erosion is accordingly being promoted by the Government.¹⁷⁹

In light of the above pressing environmental concerns, the need to use law as a vehicle in the regulation, management and protection of Nigeria's environment has become paramount.¹⁸⁰

APPENDIX 2

MAIN NATIONAL ENVIRONMENTAL LAWS IN NIGERIA

- Animal Diseases (Control) Act¹⁸¹
- Bee (Import, Control and Management) Act¹⁸²
- The Endangered Species Act¹⁸³
- Hides and Skins Act¹⁸⁴

¹⁷⁹ See generally, the *National Policy on the Environment* of 1999 (revised edition), at pp. 30-37.

¹⁸⁰ On the role of law in international environmental protection, see P.W. Birnie and A.E. Boyle, *International Law and the Environment*, 2nd ed (Oxford: Oxford University Press, 2002), pp. 7-9.

¹⁸¹ Cap. A.17 *Laws of the Federation of Nigeria (LFN)* 2004. The main objective of the Act is to prevent the spread and introduction of infections and contagious diseases among animals, hatcheries and poultry enterprises.

¹⁸² Cap. B.6 *LFN* 2004. The Act provides that bees and agricultural materials shall be imported by licensed persons only.

¹⁸³ Cap. E.9 *LFN* 2004. The Act provides for the conservation and management of wildlife and the protection of species in danger of extinction as a result of overexploitation.

¹⁸⁴ Cap. H.3 *LFN* 2004. The Act provides for the regulation and control of the trade and export of hides and skins.

- Live Fish (Control of importation) Act¹⁸⁵
- National Crop Varieties and Livestock Breeds Act¹⁸⁶
- Agricultural (Control of Implementation) Act¹⁸⁷
- Agricultural and Rural Management Training Institute Act¹⁸⁸
- Pests (Control of Produce) Act¹⁸⁹
- Quarantine Act¹⁹⁰
- Associated Gas Re-injection Act¹⁹¹
- Civil Aviation Act¹⁹²
- Oil and Navigable Waters Act¹⁹³
- River Basin Development Authority Act¹⁹⁴
- Sea Fisheries Act¹⁹⁵
- Territorial Waters Act¹⁹⁶
- Exclusive Economic Zone Act¹⁹⁷
- National Water Resources Institute Act¹⁹⁸
- Kainji Lake National Park Act¹⁹⁹
- Harmful Waste Act²⁰⁰
- Land Use Act²⁰¹
- Minerals Act²⁰²
- Petroleum Act²⁰³
- Criminal Code Act²⁰⁴
- Energy Commission of Nigeria Act²⁰⁵

185 Cap. L.14 *LFN* 2004. The Act prohibits the importation of live fish without a permit.

186 Cap. N.27 *LFN* 2004. The Act provides for the certification, registration and release of national crop varieties and livestock breeds.

187 Cap. A.13 *LFN* 2004. The Act seeks to control the spread of plant diseases and pests; and regulates the importation of specific articles.

188 Cap. A.10 *LFN* 2004. The Act establishes a training institute to identify management training needs in agricultural and rural development organisations throughout the country; and provides for the development and implementation of training programs to meet the needs of managers in agriculture and rural development.

189 Cap. P.9 *LFN* 2004. The Act provides for the inspection of produce for pests before export from all air and sea ports.

190 Cap. Q.2 *LFN* 2004. The Act regulates quarantine procedures so as to prevent the introduction of infectious diseases.

191 Cap. A.25 *LFN* 2004. The Act prohibits gas flaring that will result in air and thermal pollution.

192 Cap. C.13 *LFN* 2004. The Act regulates atmospheric pollution resulting from aviation activities.

193 Cap. O.6 *LFN* 2004. The Act prohibits the discharge of oil into navigable waters.

194 Cap. R.9 *LFN* 2004. The Act establishes eleven river basin development authorities to undertake development of surface and underground water resources for multiple uses; especially for the control of floods and erosion and for watershed management.

195 Cap. S.4 *LFN* 2004. The Act provides for the regulation and protection of sea fisheries in territorial waters.

196 Cap. R.5 *LFN* 2004. The Act determines the limit of Nigeria's territorial waters.

197 Cap. E.17 *LFN* 2004. The Act defines the Exclusive Economic Zone of Nigeria as extending 200 nautical miles seawards from the coast and enables Nigeria to exercise its sovereign rights, especially in relation to the conservation or exploitation of the resources of the seabed, subsoil and superjacent waters.

198 Cap. N.83 *LFN* 2004. The Act establishes the National Water Resources Institute to promote and develop training programs in water resource management and to advise government on training needs and priorities.

199 Cap. 197 *LFN* 1990. The Act establishes Kainji Lake National Park for the conservation and preservation of wildlife and natural life.

200 Cap. H.1 *LFN* 2004. The Act prohibits the carrying, depositing and dumping of harmful waste on land or water.

201 Cap. L.5 *LFN* 2004. The Act vests all land in a state in the governor of that state and defines interests that can be held in land.

202 Cap. M.12 *LFN* 2004. The Act provides for environmental protection during mining activities.

203 Cap. P.10 *LFN* 2004. The Act provides for the protection of the environment during petroleum activities.

204 Cap. C.38 *LFN* 2004. The Act creates the offence of public nuisance which includes fouling of water and air.

205 Cap. E.10 *LFN* 2004. The Act establishes the Energy Commission of Nigeria to coordinate the development of Nigeria's energy resources.

- Federal Environmental Protection Agency Act²⁰⁶
- Natural Resources Conservation Council Act²⁰⁷
- Environmental Impact Assessment Decree²⁰⁸
- The Federal Environmental Protection Agency Decree²⁰⁹
- The Nuclear Safety and Radiation Protection Decree²¹⁰

206 Cap. F.10 LFN 2004. The Act establishes the Federal Environmental Protection Agency, which is charged with the responsibility for protecting and preserving the environment. It was repealed by the NESREA Act, 2007.

207 Cap. 268 LFN 1990. The Act establishes the Natural Resources Conservation Council, responsible for the conservation of natural resources and the formulation of a national policy for resource conservation.

208 No. E.12 LFN 2004. The Decree aims at infusing environmental considerations into development project planning and execution.

209 NESREA Act, 2007. The Act prescribes the powers and functions of the NESREA.

210 No. N.142 of 2004. The Decree regulates nuclear safety and radiation protection.

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NATIONAL PARK SERVICE ACT

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53. Short title.

SCHEDULE

Supplementary provisions relating to the Board, etc.

NATIONAL PARK SERVICE ACT

An Act to establish the National Park Service to be responsible for the preservation, enhancement and protection of wild animals and plants and other vegetation in National Parks; and for matters connected therewith.

[1999 No. 46, National Park Service (Amendment) Act, 2006.]

[26th May, 1999]

[Commencement.]

PART I

*Establishment of the National Park Service of Nigeria and its
Governing Board, etc.*

1. Establishment of the National Park Service

(1) There is hereby established a body to be known as the National Park Service (in this Act referred to as "the Service").

(2) The Service-s-

- (a) shall be a body corporate with perpetual succession and a common seal; and
- (b) may sue and be sued in its corporate name.

2. Establishment and composition of the National Park Service Governing Board

(1) There is hereby established for the Service a board to be known as the National Park Service Governing Board (in this Act referred to as "the Board") which shall consist of-

- (a) a chairman, who shall be a person with interest in natural resources conservation;
- (b) the Director of Forestry in the Federal Ministry of Environment;
- (c) the Surveyor-General of the Federation;
- (d) one person to represent the Federal Ministry of Internal Affairs;
- (e) one person to represent the Federal Environmental Protection Agency;
- (f) one person to represent the Nigerian Tourism Development Corporation;
- (g) one person to represent the Nigerian Conservation Foundation;

- (h) one person who possesses recognised qualifications, experience or specialization in matters relevant to conservation, preservation or protection of wildlife and natural resources, to be appointed from a research institution;
- (i) four persons to be appointed from amongst the chairmen of the National Park Management Committees in rotation for two years at a time;
- (j) two persons, one of whom shall represent the business community and the other to represent communities living within the limits of National Parks; and
- (k) the Conservator-General of the National Park Service.

(2) Members of the Board, other than *ex-officio* members, shall be appointed by the President on the recommendation of the Minister.

(3) The provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters contained therein.

[Schedule.]

3. Tenure of office of member

Subject to the provisions of this Act, a member of the Board, other than an *ex officio* member-

- (a) shall hold office for a term of four years on such terms and conditions as may be specified in his letter of appointment; and
- (b) may be reappointed for a further term of four years and no more.

4. Removal from office, etc.

(1) Notwithstanding the provisions of section 3 of this Act, a member may at any time be removed from office by the President-

- (a) for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; or
- (b) if he is satisfied that it is not in the interest of the Service or the public for the member to continue in office.

(2) A member of the Board may resign his membership by notice in writing addressed to the President and the member shall, on the date of the receipt of the notice by the President, cease to be a member.

(3) If a member of the Board ceases to hold office for any reason whatsoever before the expiration of the term for which he is appointed, another person representing the same interest as that member shall be appointed to the Board for the unexpired term.

5. Allowances of members

A member of the Board shall be paid such allowances and benefits as the Federal Government may, from time to time, direct.

PART II

Objectives, functions and powers

6. Objectives of the Service

The objectives of the Service shall be--

- (a) the conservation of selected and representative examples of wildlife communities in Nigeria;
- (b) the establishment of an ecologically and geographically balanced network of protected areas under the jurisdiction and control of the Federal Government;
- (c) the protection of endangered species of wild plants and animals and their habitats;
- (d) the conservation of wildlife throughout Nigeria so that the abundance and diversity of their species are maintained at the optimum levels commensurate with other forms of land use, in order to ensure the continued existence of wildlife for the purpose of their sustainable utilisation for the benefit of the people of Nigeria;
- (e) the preservation of outstanding scenic, natural, scientific, recreational and other values in the National Parks;
- (f) the protection and maintenance of crucial wetlands and water catchment areas;
- (g) the control of dangerous vertebrate species;
- (h) the implementation of relevant international treaties, agreements or other arrangements regarding, relating to or connected with protected areas and wildlife management to which Nigeria is a party, in so far as the power to implement those international treaties, agreements or arrangements is conferred on the Service by the Federal Government;
- (i) the promotion and provision of education about wildlife and nature conservation; and
- (j) the conservation of biological diversity in Nigeria.

7. Functions of the Service

The functions of the Service shall be to~

- (a) preserve, enhance, protect, and manage vegetation and wild animals in the National Parks;
- (b) advise the Federal Government on the development and preservation policy of the National Parks, including the financial requirements for the implementation of such policy;
- (c) advise the Federal Government on the declaration of areas which, for the purpose of protecting wildlife species, biotic communities, sites of special interest or of aesthetic value, the Service considers may be declared as National Parks under this Act;
- (d) keep under review all activities relating to the National Parks;

- (e) ensure the implementation of the National Parks Policy of the Federal Government;
- (f) prepare surveys and maintain up-to-date records of all the existing facilities for the growth and protection of the *fauna* and *flora* in the National Parks, for zoological or botanical species, and for wild or domesticated animals and advise the Federal Government and State Governments on their adequacy and efficient utilisation in the interest of the national economy;
- (g) promote, develop and carry out research on the wildlife resources of Nigeria, with a view to promoting optimum utilisation and management of the wildlife;
- (h) encourage general education in the knowledge of wild and domestic animals, *fauna* and *flora* and vegetation by publishing or sponsoring the publication of the results of research, particularly in relation to problems affecting Nigeria;
- (i) encourage the general public to visit the National Parks and the study of nature afforded in the National Parks, thereby popularising them as tourist attractions;
- (j) co-operate with other agencies to promote and develop alternatives to wildlife as a source of protein and income for the rural population;
- (k) implement relevant international conventions and obligations;
- (l) co-ordinate the activities of the various National Parks Management Committees;
- (m) administer and enforce this Act to attain its purpose; and
- (n) carry out such other activities which, in the opinion of the Service, will facilitate the performance of its functions under this Act.

8. Powers of **the** Service

The Service shall have power to--

- (a) acquire or dispose of any property, movable or immovable;
- (b) pay remuneration (including pensions), allowances, expenses and any other benefit to members of the Board and employees of the Service or any other persons, in accordance with such scales as may be determined by the Service with the approval of the Minister; and
- (c) do anything which in its opinion is calculated to facilitate the performance of its functions under this Act.

PART III

Staff of the Service

9. Conservator-General of **the National Park** Service

(1) There shall be for the Service a Conservator-General who shall be appointed by the President, on the recommendation of the Minister.

(2) A person shall not be qualified for appointment as a Conservator-General unless he possesses outstanding qualifications and has at least ten years' experience in protected area and wildlife management.

(3) The Conservator-General shall be the chief executive of the Service and be responsible->

- (a) for the execution of the policies of the Service;
- (b) for the day-to-day administration of the Service;
- (c) for co-ordinating the work of the Secretariat of the Service and the Directors of the National Parks;
- (d) subject to the general or special directions of the Board, for carrying out the provisions of this Act; and
- (e) performing such other functions as the Board or Minister may, from time to time, assign to him in relation to this Act.

(4) The Conservator-General shall hold office in the first instance for a term of five years and may be reappointed for such further terms as the President may, from time to time, determine.

(5) Subject to this section, the Conservator-General shall hold office on such terms as to emolument and otherwise as may be specified in his letter of appointment, as approved by the President.

(6) Notwithstanding the provisions of subsection (4) of this section, the Conservator-General may be removed from office by the President-

- (a) for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct; or
- (b) if he is satisfied that it is not in the interest of the Service or the public for him to continue in office.

10. Secretary and other staff

(1) The Board shall appoint a secretary to the Board who shall not be a member of the Board and shall-

- (a) be a legal practitioner;
- (b) be subject to the control and supervision of the Board and the Conservator-General; and
- (c) keep the books and records and conduct the correspondence of the Board and perform such other duties as the Board or the Conservator-General may, from time to time, direct and without prejudice to the generality of the foregoing, the secretary shall be responsible for the following, that is---
 - (i) making arrangement for meetings of the Board;
 - (ii) preparing the agenda and minutes of meetings of the Board;
 - (iii) conveying the decisions of the Board; and
 - (iv) such other functions as may be assigned to him by the Board and the Conservator-General.

(2) Notwithstanding the provisions of subsection (I) of this section, the Board shall have power to appoint for the Service either directly or on secondment from any public or civil service of the Federation such number of employees as may, in the opinion of the Board, be required to assist the Service in the discharge of any of its functions under this

(3) The terms and conditions of service and remuneration of the secretary and other employees of the Service shall be determined by the Service after consultation with the Minister.

(4) Any person who immediately before the coming into force of this Act is the holder of any office either by employment, transfer of service, secondment or posting to the Yankaru National Park under the Principal Act shall have the option of transferring his or her service to the Bauchi State Public Service or remain in the Federal Public Service.

[National Park Service (Amendment) Act, 2006.]

(4) All issues related to the welfare, conditions of service, staff regulations and pensions amongst others of the staff transferring to the Bauchi State Public Service shall at the commencement of this Act be transferred to the Bauchi State Government.

[National Park Service (Amendment) Act, 2006.]

11. Application of the Pensions Act

(I) It is hereby declared that service in the employment of the Service shall be pensionable under the Pensions Act, and accordingly, employees of the Service shall, in respect of their services, be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder.

[Cap. P4.]

(2) Notwithstanding the provisions of subsection (I) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

(3) For the purposes of the application of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Federal Government (not being the power to make regulations under section 23 thereof) is hereby vested in and shall be exercisable by the Service and not by any other person or authority.

(4) Subject to subsection (2) of this section, the Pensions Act shall, in its application by virtue of subsection (3) of this section to any office, have effect as if the office were in the civil service of the Federation.

12. Fund of the Service

(I) The Service shall establish and maintain a fund from which shall be defrayed all expenditures incurred by the Service.

(2) There shall be paid and credited to the fund established in pursuance of subsection (I) of this section-

- (a) such sums as may be granted to the Service by the Federal Government;
- (b) such sums as may be raised for the general purposes of the Service;
- (c) all moneys accruing to the Service by any means, including grants-in-aid, endowments and donations;
- (d) all charges, dues, fees or other amounts collected by the Service;
- (e) all interests on moneys invested by the Service;
- (f) such other moneys as may, from time to time, accrue to the Service.

13. Accounts, audit and estimate

(I) The Service shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause to be prepared in each year-

- (a) a statement showing the income and expenditure of the Service for the immediate preceding year; and
- (b) a statement of all the assets and liabilities of the Service as at the last day of the immediate preceding year.

(2) The Service shall cause every statement prepared under this section to be audited within six months after the end of the year to which the statement relates, by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

(3) The Service shall submit to the Minister, not later than 31 October in each year,

an estimate of its expenditure and income during the next succeeding year.

14. Annual report

(1) The Service shall prepare and submit to the Minister, not later than six months after the end of the year a report, in such form as the Minister may direct, on the activities of the Service during the immediate preceding year and shall include in the report a copy of the audited accounts of the Service for that year and the auditor's report thereon.

(2) The Minister shall cause a copy of each report made to him under this section to be laid before the President.

15. Power to borrow

(1) The Service may, with the consent of the Minister or in accordance with the general guideline approved by the Minister, borrow by way of loan or overdraft from any authorised source any moneys required by the Service for meeting its obligations and discharging its functions under this Act.

(2) The Service may, without the consent or authority referred to in subsection (1) of this section, borrow by way of loan or overdraft, where the sum or the aggregate of the sums involved at anyone time does not exceed N5,000,000.

16. Power to invest

(1) The Service may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds with the like consent or general authority referred to in subsection (1) of section 15 of this Act.

(2) The Service may invest any of its surplus funds in such securities as may be permitted by law.

17. Power to accept gifts

(1) The Service may accept gifts of land, money or other property or things within and outside Nigeria, upon such terms and conditions, if any, as may be specified by the person or organisation making the gifts.

(2) The Service shall not accept any gift if the terms and conditions attached by the person or organisation making the gift are inconsistent with its functions under this Act.

PART IV

Establishment, Management, etc., of National Parks

18. Establishment of National Parks

(I) Subject to this Act, the President with the concurrence of the National Assembly, may by order published in the *Gazette*-

[National Park Service (Amendment) Act, 2006.]

- (a) declare such areas in the Federation as he may deem fit as National Parks which shall be subject to the provisions of this Act; or
- (b) alter the boundaries of an existing National Park.

(2) An order made under subsection (I) of this section shall---

- (a) set out the situation and limits of each National Park;
- (b) specify the interim management policy for the National Park; and
- (c) specify the classification of the National Park.

19. Procedure for establishing or altering the boundaries of National Parks

(I) A proposal to establish or alter the boundaries of a National Park shall be accompanied by-

- (a) a positive environmental impact assessment report;
- (b) a recommendation based on the report of a comprehensive study of the matter by or under the direction of the Service, approved by the Minister;
- (c) the consent to the proposed establishment or alteration--

(i) of the Governor, where the National Park falls within the territory of one State;

(ii) of a majority of the Governors of the States within whose territories the National Park is located, where the National Park falls within the territories of two or more States.

(2) If the conditions listed in subsection (I) of this section are complied with and the President is satisfied that the establishment or alteration is desirable in the circumstances he shall by order published in the *Gazette*--

- (a) establish the National Park; or
- (b) effect the proposed alteration or such alteration falling short of the proposed alteration as may best seem fit to him in the circumstances.

20. Ownership of **wild** animals.

(I) The ownership of every wild animal and wild plant existing in its natural habitat in a National Park and anything whatsoever, whether of biological, geomorphological or historical origin or otherwise, existing or found in a National Park is hereby vested in the Federal Government and subject to the control and management by the Federal Government for the benefit of Nigeria and mankind generally.

(2) Where the wild animal, wild plant or other thing is lawfully taken pursuant to a licence issued under this Act, the ownership of the animal, plant or thing shall, subject to the provisions of this Act, vest or continue to be vested in the licensee.

(3) Except with authority under a licence, nothing in this section shall be deemed to transfer to any person the ownership of a wild animal found dead or dying, or of a wild plant that has been cut down.

(4) If a person takes a wild animal or wild plant in contravention of this Act, the ownership of that animal or plant shall not be transferred to that person.

(5) A wild animal found outside a National Park shall not by reason only of its being found near the National Park be deemed to be the property of the Federal Government, unless it is shown to be in the course of a recognised natural migratory route or pattern to or from the National Park.

(6) Nothing in this Act shall be deemed to confer any right to damages or compensation on a person who alleges that he has suffered injury from or due to the activities of a wild animal or wild plant shown to be the property of the Federal Government otherwise than as provided in this Act.

Establishment, composition, etc., of National Parks Management Committee, etc.

21. Establishment of National Park Management Committees

(1) There is hereby established for each National Park a committee to be known as the National Park Management Committee (in this Act referred to as "the Management Committee") which shall consist of-

- (a) a chairman who shall have a good knowledge of the National Park, to be appointed by the Minister, on the recommendation of the Governor of the State in which the National Park is located;
- (b) the Director of Forestry of the State concerned;
- (c) one person to represent the Ministry charged with responsibility for matters relating to land in the State concerned;
- (d) one person to represent the Conservator-General of National Parks;
- (e) one person to represent the zonal office of the Nigerian Tourism Development Corporation;
- (j) one person, with recognised qualifications, experience or specialisation in matters relevant to conservation, preservation or protection of wildlife and natural resources to represent the academic or research institutions located in the State concerned;
- (g) one person to represent conservation non-governmental organisations in the State concerned;
- (h) one person to represent the State Tourism Board;
- (i) two persons to represent public interest in the State concerned;
- (j) the Director of the National Park.

(2) A member of the Management Committee, other than an *ex officio* member-

- (a) shall be appointed by the Minister, on the recommendation of the Governor of the State concerned

- (b) shall hold office for a term of four years on such terms and conditions as may be specified in his letter of appointment;
- (c) may be reappointed for a further term of four years.

(3) Where a National Park is located within the territories of two or more States--

- (a) the Minister shall apportion the seats on the Management Committee between those States in such proportion as may appear to him best in the circumstances; and
- (b) the Governor of a State shall make the nomination in respect of a seat apportioned to that State pursuant to paragraph (a) of this subsection.

(4) The quorum of a meeting of the Management Committee shall be six.

(S) Subject to subsection (4) of this section, the Management Committee shall have power to regulate its own procedure and the conduct of its own meetings.

22. Functions of the Management Committees

Subject to such directions as may be given from time to time, by the Board, each Management Committee shall assist in implementing the policies of the Service and, in particular, shall-

- (a) ensure that the National Park is set aside exclusively for the propagation, protection and management of the vegetation and wild animals in the National Park;
- (b) ensure that hunting, destruction or collection of animals and plants are prohibited in the National Park except-
 - (i) for scientific or management purposes; or
 - (ii) in the case of fish, for sporting purposes; and
 - (iii) in either case, on the direction and control of the Director;
- (c) ensure that an undertaking involving any of the following activities, that is--
 - (i) forestry, agriculture, grazing, mining, excavation or prospecting; or
 - (ii) flight over the National Park at altitudes lower than 200 metres; or
 - (iii) any drilling or levelling of the ground or construction; or
 - (iv) any work which could alter the configuration of the soil or the character of the vegetation; or
 - (v) any water pollution; or
 - (vi) any act likely to harm or disturb the *fauna* and *flora*, including the introduction of zoological or botanical species, whether indigenous or imported, wild or domesticated,

is prohibited except in so far as the activity is necessary for the implementation of the provisions of paragraph (d) of this section or for enabling members of the public to visit the National Park; and

- (d) perform such other functions as the Board may, from time to time, assign to it

23. Powers of Management Committees

Each Management Committee shall, with the approval of the Board, have power to--

- (a) regulate access to and use of the National Park by members of the public; and
- (b) do anything which in its opinion is calculated to facilitate the performance of its functions under this Act.

24. Directors of National Parks

(1) The Service shall appoint for each National Park a director who shall have requisite qualification in wildlife management and a minimum of seven years' experience in protected area management.

(2) The director shall--

- (a) be responsible for the day-to-day administration of the National Park;
- (b) act as secretary to the Management Committee; and
- (c) carry out such other functions as the Management Committee or Board may, from time to time, assign to him.

PART V

Management principles, etc., of National Parks

25. Management of National Parks to be based on prescribed management principles

(1) Each National Park shall be managed in accordance with--

- (a) the management principles prescribed by or under this Act for the class of protected area; and
- (b) the interim management policy for the National Park until a management plan is approved for the National Park in accordance with this Act.

(2) The interim management policy for a National Park shall be as specified in the order declaring an area to be a National Park.

(3) The interim management policy for a National Park shall contain a statement of--

- (a) the significant cultural and natural resources and values of the National Park;
- (b) the proposed management policy for the National Park; and
- (c) the proposed use of the National Park.

(4) A National Park may be divided into zones for the purpose of applying in each zone a different management principle that may best ensure the overall management objective for the National Park.

26. Management principles of the National Park

Subject to the establishment of different classes of National Parks and the different management principles specified for their management, a National Park shall be managed so as to--

(a) provide for the permanent preservation, to the greatest possible extent, of its natural condition;

(b) protect and preserve its cultural and natural resources and values; and

(c) ensure that its use shall be nature-based and ecologically sustainable.

27. Management plan for the National Park

(1) The Management Committee shall, not later than two years after-

(a) the enactment of this Act, in the case of an existing National Park; or

(b) the establishment of a new National Park,

prepare and publish a comprehensive management plan in accordance with internationally accepted standards.

(2) Each management plan shall include--

(a) a map of the National Park indicating proposed facilities;

(b) an inventory of the wildlife, cultural and related natural resources in the National Park;

(c) an assessment of wildlife population trends in the National Park;

(d) an assessment of wildlife interference and plans for controlling it;

(e) a description of proposed research activities;

(j) a description of proposed infrastructural development, including the construction of facilities for visitors to the National Park;

(g) a description of proposed activities for the management of wildlife resources, including restoration of depleted populations;

(h) plans for the administration of the National Park, including financial and staffing projections;

(i) plans for the development of national and international tourism, where applicable;

(j) plans for the creation of buffer zones around the National Park;

(k) plans for public participation in the activities of the National Park;

(l) plans for the participation of the local communities in the management of the National Park;

(m) plans for promoting and assisting in ensuring environmentally sound and sustainable development in the areas surrounding the National Park, other than the buffer zones, with a view to furthering protection of those areas.

(3) The Management Committee shall, in preparing a management plan, invite, accept and consider all appropriate submissions from interested groups, local authorities and committees and members of the public.

(4) The draft management plan shall be submitted to the Board for its consideration and approval, with or without modifications, not later than three months after its submission.

(5) A management plan shall be reviewed at intervals of not more than ten years and the procedure for submission and approval by the Board shall be the same as for the management plan.

(6) A copy of the management plan or reviewed management plan shall be available to members of the public on payment of the prescribed fee.

(7) A management plan shall replace an interim management policy as soon as it is approved by the Board.

28. System plan

(1) The Service shall cause to be prepared for the National Parks a system plan which shall include-

- (a) the objectives of the network of National Parks;
- (b) an outline of what each National Park contributes to achieving those objectives;
- (c) identified areas of lapses in the National Parks and proposals for preventing future lapses;
- (d) detailed plans for managing each National Park as an integral unit of the network of National Parks; and
- (e) such other information as may be required for or as may be practicable in this type of system plan.

(2) The Service shall give notice to members of the public that it proposes to prepare a draft system plan for the National Parks and invite submissions from relevant interest groups, local authorities and communities and members of the public.

(3) The draft system plan shall not become effective until it is approved by the Board and published in the *Gazette*.

(4) An approved system plan or a reserved system plan, as the case may be, shall remain in operation for at least seven years before review.

PART VI

Offences and penalties

29. Restriction on entry into National Parks, etc.

(1) A person who, except in accordance with the provisions of this Act, enters into, resides, erects a building or camp in a National Park is guilty of an offence.

(2) The provisions of subsection (1) of this section shall not apply to--

- (a) a member of the Board;
- (b) an employee of the Service;
- (c) a police officer or public officer on specified duty requiring his presence in the National Park;
- (d) a person travelling through the National Park along a public road within the confines of the road reserve;

(e) a person in possession of a permit, issued by the Conservator-General or any other employee of the Service duly authorised in writing by the Conservator-General in that behalf, allowing the person to enter, reside, erect a building or camp in a National Park; and

(f) a person who enters or is admitted pursuant to a regulation made under section 51 of this Act, so however that the member, employee or other person, as the case may be, shall be subject to any relevant regulations made under section 51 of this Act, where appropriate, and shall, except if he is exempted, pay any charge or fee relating to the entering, residing, erecting or camping, as the case may be.

30. Restriction on hunting, etc., in the National Parks

(I) A person who, unless authorised to do so under this Act or the regulations made under this Act'--

- (a) hunts or captures an animal; or
- (b) destroys or collects an animal; or
- (c) uproots, burns, strips off the bark or leaves from or otherwise damages a tree or plant; or
- (d) sets fire to any grass or herbage or kindles a fire; or
- (e) digs, cuts, turns or cultivates the soil or makes a farm or plantation; or
- (f) constructs a dam or weir across a river or stream or otherwise obstructs the channel of a river or stream; or
- (g) introduces a chemical or otherwise causes any form of pollution; or
- (h) removes from or damages the nest of a bird or reptile; or
- (i) fishes or attempts to kill any fish; or
- (j) is in possession of a wild animal, bird or reptile, dead or alive; or
- (k) is in possession of, uses, or sets a snare, net trap or any other instrument for the purpose of capturing or killing an animal; or
- (l) drives, stampedes or in any way disturbs unnecessarily any animal; or
- (m) carries out an undertaking connected with forestry, agriculture, grazing or excavation; or
- (n) does any levelling of the ground or construction or any act tending to alter the configuration of the soil or the character of the vegetation; or
- (o) does an act likely to harm or disturb the *fauna* or *flora*; or
- (p) engages in drilling, mining, prospecting or exploration of any kind of natural resources; or
- (q) uses any bait, decoy, hide, blind or any calling device whatsoever to bring animals closer for the purpose of hunting them; or
- (r) uses or is in possession of a motor vehicle's dazzling or artificial light or radio communication; or

(s) damages or removes a material that is of geological, prehistoric, archaeological, historical or scientific interest, in a National Park, is guilty of an offence under this Act.

(2) A person who flies any kind of aircraft at an altitude lower than 200 metres over a National Park is guilty of an offence under the Act.

(3) The Conservator-General or any other employee of the Service, duly authorised by the Conservator-General in that behalf, may issue a permit to a person to fish in a National Park.

(4) The Conservator-General may issue a permit to a person authorising the person, under the direction of the Conservator-General, to hunt wild animals in a National Park-

- (a) if the Conservator-General is satisfied that--
 - (i) a wild animal ought to be hunted for the better preservation of other animal life in the National Park; or
 - (ii) a wounded animal ought to be destroyed; or
- (b) in order to ensure that the population of a particular species does not exceed the carrying capacity of the National Park.

(5) A permit issued pursuant to subsection (4) of this section shall specify the species and number of wild animals which may be hunted under the permit.

(6) The Conservator-General may at any time, in his absolute discretion, revoke or cancel a permit issued pursuant to subsection (3) or (4) of this section.

(7) This section shall not apply to an employee of the Service or any other public officer or police officer acting in the performance of his duties under this Act or any other written law.

31. Restriction on weapons, etc., in the National Parks

- (1) A person in a National Park who-
 - (a) without a permit issued under this section; or
 - (b) in breach of any express condition of a permit issued under this Act; or
 - (c) in breach of a regulation made pursuant to this Act,

conveys into a National Park or, being within the confines of the National Park, is in possession of, carries or uses for any purpose, any firearm, spear, bow, arrow or other weapon, explosive, snare, net trap or poison, or sets out any snare, net trap or other instrument for the purpose of capturing or killing an animal, is guilty of an offence under this Act.

(2) The Conservator-General or any other employee of the Service duly authorised in that behalf by the Conservator-General may, subject to such conditions as he may deem fit, issue a permit to a person--

- (a) to convey into a National Park; or
- (b) within the confines of the National Park, to possess, carry or use,

for a purpose expressly stated in the permit, any firearm, spear, bow, arrow or other weapon or any explosive, snare, net, trap or poison, as the case may be.

(3) A permit issued under subsection (2) of this section shall be valid for the period specified in the permit.

(4) In a charge for a contravention of this section, the onus of proving that the conveyance into or possession, carriage or use in a National Park of any firearm, spear, bow, arrow or other weapon or of any explosive, snare, net, trap or poison, as the case may be, was lawful, shall be on the person charged.

(5) The provisions of subsections (1), (2) and (4) of this section shall not apply to an employee of the Service or any other public officer or police officer acting in the performance of his duties under this Act or any other written law.

32. Prohibition of introduction of wild animals into National Park

(1) A person who, without the consent of the Conservator-General, conveys, drives or introduces a wild animal, whether indigenous or imported, into a National Park is guilty of an offence under this Act.

(2) If an employee of the Service finds, in a National Park, a wild animal which was driven, conveyed or introduced into the National Park in contravention of subsection (1) of this section, he may destroy the animal or order it to be destroyed without compensation.

33. Prohibition of domestic animals in National Park

(1) A person, being the owner or the person in charge or control of a domestic animal who, without the consent of the Conservator-General--

- (a) conveys, drives or introduces the domestic animal into a National Park or causes or permits the domestic animal to be so conveyed, driven or introduced;
- or
- (b) permits or causes the domestic animal to stray into a National Park; or
- (c) permits or causes the domestic animal to worry, harass or otherwise interfere with a wild animal within the confines of a National Park,

is guilty of an offence under this Act.

(2) On the conviction of a person of an offence under this section, the court may, in addition to any other penalty imposed, order the domestic animal to be forfeited or destroyed without compensation.

34. Prohibition of introduction of plants into National Park

(1) A person who, without the consent of the Conservator-General, brings or introduces a plant or any other vegetation, whether indigenous or imported, into a National Park, is guilty of an offence under this Act.

(2) If an employee of the Service finds, within the confines of a National Park, a plant which was brought or introduced into the National Park in contravention of subsection (1) of this section, he may destroy the plant or order it to be destroyed without compensation.

35. Restriction on prospecting for genetic materials in National Park

(1) No person shall prospect for a genetic material or remove or attempt to remove any biological material from a National Park for the purpose of exploiting its genetic material except with the written prior informed consent of the Minister on the recommendation of the Service.

(2) Subject to the provisions of subsection (1) of this section, no transfer of a genetic material or indigenous knowledge relating to a genetic material owned or in the possession or custody of a Nigerian citizen, group or association shall be made, except with the written prior consent of that citizen, group or association, which may be given subject to arrangements being made to share research opportunities and benefits derived from the genetic material or indigenous knowledge relating to the genetic material.

(3) The consent to prospect for genetic resources shall be vitiated by fraud, deceit, or the wilful or negligent failure to supply information that is reasonably available to the applicant and contained in the application for the required consent.

(4) The consent to prospect for genetic resources shall not be granted to a person unless he undertakes to--

- (a) secure research collaboration with Nigerian scientists;
- (b) make periodic reports concerning the subsequent use of the genetic resources; and
- (c) share the benefits derived from the resources with the Government and people of Nigeria, and this undertaking shall be a continuing obligation relating to the genetic resources in whatever form they may be synthesised or manipulated and irrespective of their transfer to other parties.

(5) A person who--

- (a) prospects for a genetic material in a National Park;
- (b) removes or attempts to remove a biological material from a National Park;
- (c) transfers a genetic material or indigenous knowledge relating to a genetic material, without the consent required under subsections (1) and (2) of this section, is guilty of an offence.

36. Aiding and abetting of offences, etc.

A person who aids, abets, procures or conspires with another person or attempts to commit any of the offences specified in this Act or regulations made under this Act is guilty of an offence as if he himself had committed the offence and shall be punished accordingly.

37. Penalties

(1) A person who is guilty of an offence under section 29 of this Act, shall be liable on conviction to a fine not exceeding *H20,000* or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) A person who is guilty of an offence under section 29 of this Act is liable on conviction--

- (a) where the offence is that of hunting, wounding, killing or capturing of a mother of a young animal, large mammal or any endangered, protected or prohibited species, to imprisonment for a term of not less than three months but not exceeding five years without the option of a fine;
- (b) where the offence is that specified in paragraph (g), (m), (n), or (o) of that section, to imprisonment for a term of not less than six months but not exceeding ten years without the option of a fine;
- (c) in the case of any other offence, to a fine of not less than N I 0,000 but not exceeding N50,000 or imprisonment for a term of not less than one year but not exceeding five years or to both such fine and imprisonment;
- (d) where the offence is committed by a body corporate, to a fine of not less than N I 00,000 but not exceeding N I ,000,000.

(3) A person who is guilty of an offence under section 31 of this Act is liable on conviction to a fine of not less than N5,000 but not exceeding N25,000 or imprisonment for a term of not less than six months but not exceeding five years or to both such fine and imprisonment.

(4) A person who is guilty of an offence under section 32 of this Act is liable on conviction to a fine of not less than N I 0,000 but not exceeding N50,000 or imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(5) A person who is guilty of an offence under section 33 of this Act is liable on conviction to imprisonment for a term of not less than three months but not exceeding five years without the option of a fine.

(6) A person who is guilty of an offence under section 34 of this Act is liable on conviction to a fine of not less than N I 0,000 but not more than N50,000 or imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(7) A person who is guilty of an offence under section 35 of this Act is liable on conviction to imprisonment for a term of not less than six months but not exceeding five years without option of a fine.

(8) A person who aids, abets, procures or conspires with another person or attempts to commit any of the offences under this Act or regulations made under this Act, is liable on conviction to the penalty which the person who committed the offence is subject to under this Act or the regulations.

38. Offences by bodies corporate

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any of those capacities, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

39. Forfeiture and compensation

(1) In a judicial proceeding under this Act it shall be lawful for the court before which the proceeding is brought to make an order that any equipment, instrument and any other thing of the like nature used by the offender in committing the offence be forfeited to the National Park.

(2) Where by or under this Act a fine or imprisonment is imposed on a person, the court may order that compensation for the conservation value of a wild plant, wild animal or the ecosystem, where applicable, as stipulated in regulations made under section 51 of this Act, be paid by the person to the National Park.

40. Conduct of proceedings

(1) Subject to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria 1999, (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), any officer of the Service may, with the consent of the Attorney-General of the Federation, conduct criminal proceedings in respect of offences under this Act or regulations made under this Act.

[Cap. C23.]

(2) In a judicial proceeding for an offence under this Act or any regulations made under this Act, the provisions of the Criminal Procedure Act or, depending on the venue, the Criminal Procedure Code, shall with such modifications as the circumstance may require apply in respect of such matter to the same extent as they apply to the trial of offences generally.

[Cap. C41.]

41. Power to compound offences

(1) The Service may, without prejudice to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria 1999, (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), and subject to such directions, whether general or specific, as may be given by the Attorney-General of the Federation, stay or compound any proceeding for an offence or for the condemnation of anything as being forfeited under this Act.

[Cap. C23.]

(2) Where a person is reasonably suspected of having committed an offence under this Act, the compounding officer designated by virtue of regulations made under section 51 of this Act, may, if the suspected person so agrees, receive from the person a sum of money stipulated as penalty under this Act instead of initiating proceedings against the suspected person in a court of law.

(3) On payment being made pursuant to subsection (2) of this section, the suspected person shall be released from custody and no further proceedings shall be taken against the person in respect of the offence and, if an action is pending in a court in respect of the same person on the same facts, the action shall be withdrawn.

(4) The compounding officer shall in no case receive cash but shall ensure that any sum of money required to be paid is paid into an account operated by the National Park and shall give the suspected person a receipt for the sum of money paid.

PART VII

Miscellaneous

42. Possession of arms by officers of the Service

(1) Notwithstanding anything in any other enactment, it shall be lawful for an officer of the Service not below the rank of Chief Park Officer to have a firearm and ammunition in his possession or under his control on such occasions as may be specified by regulations.

(2) Provision shall be made by regulations for the safe custody of firearms and ammunition provided in pursuance of subsection (1) of this section.

(3) The authorisation to possess and control arms and ammunition given under subsection (1) of this section to officers of the Service not below the rank of Chief Park Officer shall extend to officers of the Service not below the rank of Park Officer when they are acting under the personal supervision of an officer not below the rank of Chief Park Officer.

43. Restriction on construction of building within National Parks

(1) Subject to the management principle of a National Park, the location and construction of administrative, housing and other facilities of a National Park shall be outside the boundaries of the National Park.

(2) Where-

- (a) it is proposed to locate or construct a building or other facility inside a National Park; or
- (b) in the case of an existing National Park, buildings or other facilities are already located within the National Park,

an environmental impact audit shall be conducted and where necessary an appropriate mitigation or remedial programme shall be instituted and carried out.

44. Request for environmental impact assessment

(1) If a person has good and sufficient reason to believe that a proposed or existing process or activity of government or any other organisation or person may have an adverse effect on a wildlife species or community, that person may request the Service to ensure that an environmental impact assessment is undertaken by the Federal Environmental Protection Agency.

(2) The provisions of the Environmental Impact Assessment Act shall apply to an environmental impact assessment undertaken under subsection (1) of this section.

[Cap. EI2.]

(4) The compounding officer shall in no case receive cash but shall ensure that any sum of money required to be paid is paid into an account operated by the National Park and shall give the suspected person a receipt for the sum of money paid.

PART VII

Miscellaneous

42. Possession of arms by officers of the Service

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(2) Provision shall be made by regulations for the safe custody of firearms and ammunition provided in pursuance of subsection (I) of this section.

(3) The authorisation to possess and control arms and ammunition given under subsection (1) of this section to officers of the Service not below the rank of Chief Park Officer shall extend to officers of the Service not below the rank of Park Officer when they are acting under the personal supervision of an officer not below the rank of Chief Park Officer.

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(2) The provisions of the Environmental Impact Assessment Act shall apply to an environmental impact assessment undertaken under subsection (1) of this section.

[Cap. E12.]

45. Scientific investigation of activities relating to the National Parks

(1) For a better achievement of the objectives specified in this Act, every person responsible for the administration of this Act shall ensure that any measure taken or instituted under this Act is based on the result of scientific investigation, including the monitoring of the status and habitat conditions of the species.

(2) The Service may appoint suitable persons, organisations, committee of scientists, academicians or such other persons as it may think fit, to assist in undertaking surveys, scientific researches and other studies of a scientific and professional nature relating to its functions under this Act.

46. Declaration of buffer zones around the National Parks

(1) The Service may, in consultation with the local community, declare the area surrounding a National Park as a multiple-use area to protect the boundaries of the National Park from disturbance.

(2) The area referred to in subsection (1) of this section shall be as wide as may be practicable and the Service shall reach agreement with the local community on measures to be taken to control activities which threaten the objectives and the resources of the National Park in the area.

47. Delineation of boundaries of National Parks

Within three years of the declaration of a National Park, and two years from the date of the commencement of this Act, in the case of an existing National Park, the Service shall clearly mark the boundaries between each of the National Parks and the surrounding land.

48. Participation of local communities in the management of National Park

(1) The Board and Management Committees shall consult with and take into account the views of local communities in the administration and management of the National Parks and may, in each case, establish Local Advisory Committees consisting of local residents to assist in the management of a National Park.

(2) For the purpose of achieving a more effective partnership with the local communities and to return benefits to them, a Management Committee may organise, co-operate with or encourage the organisation of or co-operation with guilds, associations and networks of local communities in respect of any particular endeavour, activity, trade or profession.

49. Directives by the Minister

The Minister may give directives of a general or special character, not inconsistent with the provisions of this Act, to the Service in relation to the performance by the Service of its functions under this Act and it shall be the duty of the Service to comply and give effect to the directives.

50. Repeals, savings and transfer of assets and liabilities, etc.

(1) The National Parks Act (in this section referred to as "the repealed Act") is hereby repealed but the Board established under the repealed Act shall, subject to this Act,

perform the functions of the Board established under this Act until the Board established under this Act is duly constituted, and shall then stand dissolved.

[1991 No. 36.]

(2) Accordingly and subject to the provisions of this Act, all property, rights, liabilities and obligations which, immediately before the commencement of this Act were property, rights, liabilities and obligations of any of the bodies comprised in-

- (a) the Chad Basin National Park;
- (b) the Cross River National Park;
- (c) the Gashaka-Gumti National Park;
- (d) the Kainji Lake National Park;
- (e) the Old Oyo National Park;
- (f) Kamuku National Park; and
[National Park Service (Amendment) Act, 2006.]
- (g) Okomu National Park,
[National Park Service (Amendment) Act, 2006.]

(in this Act referred to as "the respective bodies"), established by or under the repealed Act, shall, as from the commencement of this Act, without further assurance, vest or be deemed to have vested in the Service.

(3) For the avoidance of doubt, the National Parks listed in subsection (2) of this section shall continue to exist as National Parks within their respective existing boundaries until new orders are made under this Act, and shall be subject to the provisions of this Act.

(4) Subject to this Act, the Management Committee appointed under the repealed Act shall continue in office until the Management Committee established under this Act is duly constituted, and shall then stand dissolved.

(5) The Director of the National Parks Board and a General Manager of a National Park appointed under the repealed Act shall, unless the relevant authority otherwise determines in writing, continue in office until a Conservator-General or a Director, as the case may be, is appointed under this Act.

(6) There shall by virtue of this Act be vested in the Service all assets, funds, resources, and other movable or immovable property which immediately before this Act were vested in the Board established under the repealed Act.

(7) The rights, interests, obligations and liabilities of the Board established under the repealed Act existing before this Act under any contract or instrument, or in law or in equity apart from any contract or instrument, shall by virtue of this Act be assigned to and vested in the Service.

(7A) The statutory functions, rights, interests, obligations and liabilities of the Yankari National Park in the Principal Act under any instrument or contract shall at the commencement of this Act be assigned and vested in the Bauchi State Government.

[National Park Service (Amendment) Act, 2006.]

(8) A contract or an instrument as is mentioned in subsection (7) of this section shall be of the same force and effect against or in favour of the Service and shall be enforceable as fully and effectively as if the Service had been named in the contract or instrument or had been a party to it.

(9) The Service shall be subject to all obligations and liabilities to which the Board established under the repealed Act was subject before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Service as they had against the Board established under the repealed Act immediately before the commencement of this Act.

(10) A proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Board established under the repealed Act in respect of any right, interest, obligation or liability of the Board established under the repealed Act may be continued or, as the case may be, commenced, and any determination of a court of law, tribunal or other authority or person may be enforced by or against the Service to the same extent that such proceeding, cause of action or determination might have been continued, commenced or enforced by or against the Board established under the repealed Act if this Act has not been made.

(II) All assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the Board established under the repealed Act shall by virtue of this Act and without further assurance be vested in the Service.

(II A) The assets, funds, resources and any other movable or immovable property which immediately before the commencement of this Act were vested in the Board responsible for the administration and maintenance of the Yankaru National Park in the Principal Act shall be vested in the Bauchi State Government.

(National Park Service (Amendment) Act, 2006.]

(12) Notwithstanding the repeal of the enactment referred to in this section, if the Service thinks it expedient that any vacancy in the Service shall be filled by a person holding office at the commencement of this Act in the Board established under the repealed Act, it may employ the person by way of transfer to the Service and the previous service in the Board established under the repealed Act by that person shall count as service for the purpose of any pension subsequently payable by the Service.

(13) The Minister, if he thinks fit, may, within the twelve months after the commencement of this Act, by order published in the *Gazette*, make additional transitional or savings provisions for the better carrying out of the objectives of this section.

(14) The Yankari Game Reserve listed among the National Parks in the Second Schedule of the Privatisation and Commercialisation Act for partial privatisation and commercialisation is consequently deleted from the said list and ceases to be a national park.

(National Park Service (Amendment) Act, 2006.]

51. Regulations

(1) The Service may, with the approval of the Minister, by regulations, make provisions for-

- (a) management principles, other than those specified in section 27 of this Act, for National Parks of a different class other than those contemplated under that section;

- (b) the conditions under which any person, vehicle, boat, or animal may enter into, travel through, reside, camp or be kept, as the case may be, in a National Park or any part of a National Park;
- (c) the conditions under which a person travelling through or in a National Park on a public road may have in his possession or under his control any firearm or other weapon, ammunition, explosive, trap or poison;
- (d) the conditions under which any game animal or species of game animal may be photographed in a National Park;
- (e) the regulation or prohibition of lighting of fires in a National Park;
- (f) the conditions under which a domestic or wild animal may be brought into or maintained or prohibited in a National Park, and the regulations may prescribe the fees to be charged for the bringing of any domestic or wild animal into the National Park;
- (g) the prohibition or control of the introduction into, the cutting or damaging, or the removal from a National Park of any plant or other vegetation, whether alive or dead;
- (h) the prohibition or control of the destruction, defacing, damaging or removal of anything, whether animate or inanimate, in or from a National Park;
- (i) the fees to be paid for fishing and the conditions under which a person may fish in a National Park;
- (j) the rules of conduct and behaviour of persons while in a National Park;
- (k) the regulation of traffic on roads, other than public roads, in a National Park;
- (l) the carriage of passengers and goods in a National Park, whether for hire or otherwise;
- (m) the point at which persons and vehicles may enter or leave and the routes by which they may pass through or over in a National Park on roads, other than public roads;
- (n) without prejudice to any other written law, the prohibition, control or regulation of any trade or business carried on in a National Park;
- (o) the killing, capturing or impounding of any animal in a National Park and the disposal of the animal;
- (p) the conditions under which permission may be granted to members of the public to enter a National Park and the periods during which the National Park shall be open to the public;
- (q) the burning and cutting of vegetation, *fauna* or *flora* in a National Park;
- (r) the control of traffic within and through a National Park;
- (s) the fees to be paid by members of the public to enter, reside, camp, take photographs or for the enjoyment of the facilities, provided in a National Park;
- (t) the conditions, procedure and eligible officers for the purpose of compounding offences;
- (u) the conditions and modalities for prospecting for genetic resources;

(v) the efficient control and management of National Parks, generally.

(2) Regulations made under this section may prescribe a penalty of a fine of not less than N 1,000 but not exceeding N50,000 for the breach of their provisions.

(3) Regulations made pursuant to this section may make different provisions for-

(a) each National Park, as the circumstances of that National Park may require;
and

(b) different persons or class of persons or circumstances.

52. Interpretation

In this Act, unless the context otherwise requires--

"adverse effect" means any effect that is capable of threatening the survival of a National Park, wildlife, buffer zone, wildlife habitat or affecting the capacity of a National Park, wildlife, buffer zone, or wildlife habitat to sustain natural processes;

"aircraft" includes all flying machines, gliders, balloons and any other aircraft of any other kind designed to be lighter than air and whether or not navigable or free, or controlled by a human being or not;

"animal" means any vertebrate animal and includes any mammal, bird, reptile, and amphibian and the egg of any bird or reptile but does not include a fish or a human being;

"ammunition" has the same meaning assigned to it in the Firearms Act;
[Cap. F28.)

"biological diversity" means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within species and between the species of the ecosystem;

"biological material" includes genetic material, organisms or part thereof, population or any other biotic component of the ecosystem;

"Board" means the National Park Service Governing Board established pursuant to section 2 of this Act;

"buffer zone" means an area created pursuant to section 46 of this Act;

"capture" includes to take egg or nest;

"conservation" means the protection and maintenance of nature while allowing for its ecologically sustainable use;

"conservation value" means a monetary sum of the national, international and inter-generational value of any wildlife, including the cost of remedying ecosystem disturbance occasioned by any unlawful interference with, damage to or destruction of any wildlife as determined, from time to time, by the Service;

"Conservator-General" means the Conservator-General of the National Park Service appointed pursuant to section 9 of this Act;

"court" includes a magistrate's court;

"Director" means the Director of a National Park appointed pursuant to section 24 of this Act;

"ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

"environmental impact assessment" means an assessment carried out pursuant to the provisions of the Environmental Impact Assessment Act;

[Cap. E12.]

"existing National Parks" means the National Parks established by or under the National Parks Act;

[1991 No. 36.]

"firearms" has the same meaning assigned to it in the Firearms Act;

[Cap. F28.]

"genetic material" means any material of plant, animal or microbial or other origin containing functional units of heredity;

"genetic resources" means genetic materials of actual or potential value;

"habitat" means the place or type of site where an organism or population naturally occurs;

"Minister" means the Minister charged with the responsibility for matters relating to forestry, and "Ministry" shall be construed accordingly;

"National Park" means a defined area of land set aside, managed and controlled by the Federal Government for the protection, preservation and conservation of its *flora* and *fauna* and their habitat, outstanding aesthetic, geomorphological, cultural and historical features for conservation of bio-diversity, recreational, educational and scientific purposes;

"prescribed fee" in relation to any licence or permit issued under this Act, means, in the case of any game licence or permit so issued, the fee prescribed by regulations made under the provisions of this Act;

"protected area" means the area covered by a National Park;

"prior informed consent" means consent based on prior information on how and by whom the genetic resources or knowledge relating to the genetic resources would be subsequently used and the scientific and financial value of the genetic resources based on the most current and advanced state of knowledge and technology available worldwide;

"public road" has the meaning assigned to it by the Road Traffic Law of the State concerned;

"regulations" means regulations made under section 51 of this Act;

"road" means any public or other way capable of being used by vehicular traffic and to which the public has access and includes a bridge over which a road passes;

"Service" means the National Park Service established under section I of this Act;

"vegetation" includes any form of vegetable matter, dead or alive;

"wild animal" means any animal *ferae naturae* and includes any game animal but does not include a domestic animal;

"wild life" means wild animals or birds of species which are found in Nigeria in a wild state and vegetation which is indigenous to Nigeria and grows naturally without cultivation;

"wild plant" means a plant or any other vegetation which is indigenous to Nigeria and grows naturally without cultivation.

53. Short title

This Act may be cited as the National Park Service Act.

SCHEDULE [Section 2 (3).]

Supplementary provisions relating to the Board, etc.

Proceedings of the Board

1. (1) Subject to this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its committees.

[Cap. 123.]

(2) The quorum of the Board shall be the chairman or the person presiding at the meeting and seven other members of the Board, and the quorum of any committee of the Board shall be as determined by the Board.

2. (1) The Board shall meet not less than four times in each year and subject thereto, the Board shall meet whenever it is summoned by the chairman, and if the chairman is required to do so by notice given to him by not less than seven other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Board, the chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their number to preside at the meeting.

(3) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it deems fit, but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

3. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board, and a person shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

4. (I) The fixing of the seal of the Service shall be authenticated by the signatures of the chairman or any person generally or specifically authorised by the Board to act for that purpose and the Conservator-General.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Service by the Conservator-General or any person generally or specifically authorised by the Board to act for that purpose.

(3) A document purporting to be a document duly executed under the seal of the Service shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

5. The validity of any proceeding of the Board or of a committee shall not be adversely affected by-

- (a) a vacancy in the membership of the Board or committee; or
- (b) a defect in the appointment of a member of the Board or committee; or
- (c) reason that a person not entitled to do so took part in the proceeding of the Board or committee.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Yankari National Park Order.

YANKARI NATIONAL PARK ORDER

[S.1. 17 of 1993.]

under section 18

[22nd August, 1991]

[Commencement

1. (1) The area formerly known as the Yankari Game Reserve is hereby declared to be a National Park to be known as the Yankari National Park.

(2) Accordingly, the provisions of the National Parks Service Act in this Order ("the Act") shall apply to the Yankari National Park as if it were a National Park established under the Act.

[Cap. N65.]

2. The Yankari National Park comprises the area in the former Fali and Duguri Districts of the Bauchi Emirate of the former Bauchi Province constitute by the Bauchi Local Authority Yankari Forest Reserve Order 1957, as amended by the Bauchi Local Authority Yankari Forest Reserve (Amendment) Order 1971, the situation and limits thereof are set out in the Schedule to this order.

[Schedule.]

3. (1) Subject to the provisions of the Act and of this order, all the property, rights, liabilities and obligations which, immediately before the commencement of this order were the property, rights, liabilities and obligations of the body responsible for the management of the Yankari Game Reserve shall, as from the commencement of this order, without further assurance, vest or be deemed to have vested in the National Parks Management Board (in this order referred to as "the Board") established under the Act.

(2) Subject to the provisions of the Act and of this order, an agreement to which subsection (1) of this section relates shall, unless its terms or subject-matter make it important that it should have effect as modified in the manner provided by this section, have effect as from the commencement of this order, as if-

- (a) the Board had been a party to the agreement;
- (b) for any reference (however worded and whether express or implied) to the body referred to in subsection (1) of this section, there were substituted, as respects anything falling to be done on or after the commencement of this order, a reference to the Board.

4. Citation and commencement

This order may be cited as the Yankari National Park Order and shall be deemed to have come into force on 22nd August 1991.

SCHEDULE

[Section 2.]

Area of the Yankari National Park

All that piece of land containing eight hundred and two decimal nought four square miles or thereabout situated in the former Fali and Duguri Districts of the Bauchi Emirate of the former Bauchi Province and bounded as follows-

Starting from a point distant 4 miles 4,700 feet on a bearing of 7 degrees from Trig. point 452 (Nigeria Survey map 1 :500,000 sheet 7 dated 1949 and marked by Beacon No.1, by a straight line cut on a bearing of 289⁴/₁₂ degrees for a distance of 4 miles 800 feet to Beacon No.2 thence by a straight line cut on bearing of 214 degrees for a distance of 7 miles 1,000

feet to Beacon No.3; thence by a straight line cut on a bearing of 164°22' degrees for a distance of 3,770 feet to Beacon No.4 on the right hand side of the 1956 part from Yankari to Rimi; thence by the right hand side of the 1856 path from Yankari to Rimi in a South-Westerly and then Westerly direction for a distance of 8 miles 2,000 feet to Beacon NO.5 on the right hand side of the 1956 path from Yankari to Rimi; thence by a straight line cut on a bearing of 315°22'

degrees for a distance 3,600 feet to Beacon No.6; thence by a straight line cut on a bearing of 274°22' degrees for a distance of 3 miles 150 feet to Beacon No.7 on the left bank of the River Gaji; thence by a straight line cut on a bearing of 275 degrees for a distance of 1,300 feet to Beacon No.8 on the right bank of the River Gaji; thence by a straight line cut on a bearing of 270 degrees for a distance of 1,300 feet to Beacon No.9 on the right hand side of the 1956 path from Rimi to Dogan Ruwa; thence by the right hand side of the 1956 path from Rimi to Dogan Ruwa in a North-Westerly direction for a distance of 6 miles 2,450 feet to Beacon No. 10 on the right hand side of the 1956 path from Rimi to Dogan Ruwa and at the point where the right hand side of the 1956 path from Rimi to Dogan Ruwa meets the right bank of the River Yuli; thence by the right bank of the River Yuli upstream in a North-Westerly direction for a distance of 4,180 feet to Beacon No. 11 on the right bank of the River Yuli thence by a straight line cut on a bearing of 8 degrees for a distance of 1,000 feet to Beacon No. 12 on the left bank of the River Yuli and at the point where the right bank of the Munya stream meets the left bank of the River Yuli; thence by the right bank of the Munya Stream upstream in a general Northerly direction for a distance of 1 mile 2,000 feet to Beacon No. 13 on the right bank of the Munya stream; thence by a straight line cut on a bearing of 279 degrees for a distance of 3 miles 700 feet to Beacon No. 14 on the left bank of the River Yuli; thence by the left bank of the River Yuli upstream in a North western direction for a distance of 1 mile 4,700 feet to Beacon No. 15 on the left hand of the River, Yuli; thence by a straight line cut on a bearing of 303°22' degrees for a distance of 5 miles 5,100 feet to Beacon No. 16 on the right hand side of the 1956 dry season motor road from Maina Maji to Yuli; thence by a straight line cut on a bearing of 270 degrees for a distance of 5 miles 650 feet to Beacon No 17; thence by a straight line cut on a bearing of 321 degrees for a distance 1,410 feet to Beacon No. 18; thence by a straight line cut on a bearing of 47 degrees for a distance of 3,340 feet to Beacon No. 19; thence by a straight line cut on a bearing of 330 degrees for a distance of 3,320 feet to Beacon No. 20; thence by a straight line cut on a bearing of 264 degrees for a distance of 2,540 feet to Beacon No. 21 on the left Bank of the Galambi stream; thence by the left bank of the Galambi stream upstream in a general northerly direction for a distance of 8 miles 4,720 feet to Beacon No. 22 on the left bank of the Galambi stream; thence by a straight line cut on a bearing of 360 degrees for a distance of 5 miles 900 feet to Beacon No. 23; thence by a straight line cut on a bearing of 90 degrees for a distance of 5 miles 3,830 feet to Beacon No. 24 on the right hand side of the 1956 dry season motor road from Yuli to Maina Maji; in a general Northerly direction for a distance of 6 miles to Beacon No. 25 on the right hand side of the 1956 dry season motor road from Yuli to Maina Maji; thence by a straight line cut on a bearing of 85 degrees for a distance of 8 miles 250 feet to Beacon No. 26 on the right bank of the River Yashi; thence by the right bank of the River Yashi downstream in a South Easterly direction for a distance of 3 miles 3,700 feet to Beacon No. 27 on the right bank of the River Yashi; thence by a straight line cut on a bearing of 208 degrees for a distance of 4,180 feet to Beacon No. 28; thence by a straight line cut on a bearing of 105 degrees for a distance of 19 miles 2,000 feet to Beacon Number 29; thence by a straight line cut on a bearing of 18 degrees for a distance of 2 miles 570 feet to Beacon No. 30 on the right hand side of the 1956 path from Panguru to Futuk; thence by the right hand side of the 1956 path from Panguru to Futuk in a South-Easterly direction for a distance of 3 miles 750 feet to Beacon No. 31 on the right hand side of the 1956 path from Panguru to Futuk and at the point where the right hand side of the 1956 path from Panguru to Futuk is met by the right hand side of the 1956 path from Jada to Yalo; thence by the right hand side of the 1956 path from Jada to Yalo in a South Easterly direction for a distance of 12 miles 1,300 feet to Beacon No. 32 on the right hand side of the 1956 path from Jada to Yalo; thence by a straight line cut on a bearing of 220 degrees for a distance of 5 miles 4,800 feet to the starting point.

Note.-All distance and bearings are approximate only, distances being those actually measured along the ground and not reduced to the horizontal. All bearings are referred to the True North and adjusted from magnetic bearing observed during the month of February 1968. All beacons are cement pillars with the exception of beacons 6, 17, 19 and 20 which are cairns. All measurements are stated in the Imperial system of measurement and may be covered to the metric system of measurement if so required.

BACKGROUND

WHAT IS CITES? – CITES is an international agreement among governments to ensure that international trade in specimens of wild animals and plants does not threaten species survival. It therefore establishes the international legal framework for the prevention of trade in endangered species and for effective regulation of trade in certain other species.

WHY CITES? - International wildlife trade/traffic involves and includes live animals and plants, a vast array of product derived from wild animals and plants including food products, exotic leather goods, wooden musical instruments, timber, ivory products and medicines. The very high levels of exploitation of some species have combined with other factors such as habitat loss due to urbanization, shifting cultivation, bush burning etc. to deplete their population and even bringing some species close to extinction.

Because the trade/traffic in wild animals and plants crosses borders between/among countries, the effort to regulate it requires international co-operation to safeguard certain species from over-exploitation (i.e. safeguard them for future generations).

IS NIGERIA A MEMBER OF CITES? – CITES is an international agreement which countries join voluntarily. Countries which join CITES are called Parties. Nigeria became a Party to CITES in 1975. Nigeria has therefore agreed to be bound by the convention, and is duty-bound to implement the convention. Each Party has to adopt its own domestic legislation (law) to make sure that CITES is implemented at the national level.

NIGERIA'S NATIONAL CITES LAW? – Nigeria's National CITES Law is Endangered species Decree 11/1985, now The National Wildlife Species (Fauna & Flora) Protection Act [The Endangered Species (Control of International Trade and Traffic) 2016]. The Federal Ministry of Environment is the CITES management Authority responsible for administration and enforcement of the Convention in Nigeria. The law provides for the issuance of import, export and re-exports permits and other certificates with respect to trade/ traffic in wild animals, plants and products according to the schedule/ appendix in which the affected species is listed.

THE SCHEDULE/APPENDICES: – The listing of species in schedules/appendices is done according to the degree of protection they need, as follows:

CITES APPENDICES

Appendix I

- Include species threatened with extinction.
- International commercial trade in wild taken specimens is generally prohibited. Trade in specimens of these species is (permitted only in exceptional circumstances).

Appendix II

Includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival.

Appendix III contain species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.

NATIONAL LAW/SCHEDULES

Schedule I

Consists of animals and plants which are threatened with extinction and in which trade is exclusively prohibited.

Schedule II

Contains species which could become endangered if trade in them is not controlled.

Schedule III includes species that are considered relatively abundant but subject to regulated trade.

The Appendices/Schedules are subject to amendment from time to time.

CITES PERMIT REQUIREMENT: – Except a moratorium is in observance, the general requirement for issuance of CITES permit is as follows:

A: For Appendix / Schedule I Specimens:

- a. An export permit may be issued only if the specimen was legally obtained; the trade will not be detrimental to the survival of the species; and an import permit has already been issued.
- b. A re-export certificate may be issued only if the specimen was imported in accordance with the provisions of the Convention and, in the case of a live animal or plant, if an import permit has been issued.

B: For Appendix/ Schedule II Specimens:

- a. An export permit may be issued only if the specimen was legally obtained and if the export will not be detrimental to

the survival of the species.

- b. A re-export certificate may be issued only if the specimen was imported in accordance with the convention.
- c. No import permit is needed unless required by national law. In the case of specimen introduced from the sea, a certificate has to be issued by the management Authority of the State into which the specimens are being brought, for species listed in Appendix I or II.

C: For Appendix /Schedule III Specimens:

- a. In the case of export from any other State, a certificate of origin issued by its Management Authority is required.
- b. In the case of re-export, a re-export certificate issued by the State of re-export is required.

D: For all cases of export of live animal or plant the specimen must be prepared and shipped to minimize any risk of injury, damage to health or cruel treatment. The Convention allows or requires Parties to make certain exceptions to the general principles described above, notably in the following cases:

- ❖ For specimens in transit or being transhipped;
- ❖ For specimens that were acquired before CITES provisions applied to them (known as pre-convention specimens);
- ❖ For specimens that are personal or household effects;
- ❖ For animals that were bred in captivity;
- ❖ For plants that were artificially propagated;
- ❖ For specimens that are destined for scientific research.

HOW TO OBTAIN CITES PERMIT

- All applications for CITES permits should be addressed to the Honorable minister of Environment. The following documents should be attached (as applicable) to facilitate processing:
 - Receipt of purchase of specimen(s)
 - Free Disposal Permit from the State of acquisition of the specimen
 - The hunting License for the original acquisition of live specimen.



UNDERSTANDING CITES

(Convention on
International Trade in
Endangered Species of
wild fauna and flora)

- Forfeiture of specimens intended for export.
- Arrest and prosecution in a law court locally or oversea.
- Personal embarrassment (tarnishing the image of Nigeria in the comity of nations).

CO-OPERATE: – Please co-operate with the CITES Management Authority to serve you better while ensuring survival of a natural heritage. **You are advised to apply early for permits at least 2 months to the time of departure from Nigeria.**

**REMEMBER!
EXTINCTION IS FOREVER!!!**

NIGERIA CITES MANAGEMENT AUTHORITY

- CITES import permit (in case of application for re-export permit as well as for export permit for Appendix I/Schedule 1 specimens)
- Evidence of captive breeding operations in case of export and/or re-export of captive-bred specimens.

REQUIRED DOCUMENTS FOR ISSUANCE OF CITES EXPORT/IMPORT PERMIT FOR COMMERCIAL TRADE IN WOOD PRODUCTS.

- Letter of Support from Federal Department of Forestry, for wood products.
- Duly completed CITES application form
- Comprehensive information about the intended shipment content, shown by (Pre)/ Bill of Lading certificate, before shipping.
- Evidence of payment to Government account with receipts obtained from Federal Ministry of Environment (Department of Finance and Account).

REQUIRED DOCUMENTS FOR ISSUANCE OF CITES PERMIT FOR RESEARCH PURPOSES.

- Application letter stating the name, source and purpose of the research on the (animal and animal species).
- Evidence of introduction letter from the Research Institute or Organization concerned.
- Certificate of Origin issued by the State where the animal/ plant is sourced or acquired.
- Evidence of payment to Government Account with payments receipts obtained from Department of Finance and Account (Federal Ministry of Environment).
- In-situ Evaluation (on the spot) report, (where necessary).

WARNING! : Beware of exporting wild animals and plants without permit or with forged documents. Genuine CITES permits are obtainable from the **Federal Department of Forestry, Federal Ministry of Environment, Abuja, only.**

Use of forged documents/obtaining fake permits and certificates from unauthorized sources can result in the following:

For more information, contact:
Federal Ministry of Environment,
Federal Department of Forestry,
Plot 393/394, Augustus Aikhomu Way,
Utako District, Abuja.
www.environment.ng.org