

SUPPRESSION OF PIRACY AND OTHER MARITIME OFFENCES BILL, 2018

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A BILL [EXECUTIVE]

FOR

AN ACT TO PROVIDE FOR THE SUPPRESSION OF PIRACY AND OTHER MARITIME OFFENCES, GIVE EFFECT TO THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA, (UNCLOS) 1982 THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION (SUA) 1988 AND IT'S PROTOCOLS, AND FOR RELATED MATTERS

[] Commencement

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

1 PART I - ACTS OF PIRACY AND PROSECUTION OF MARITIME OFFENCES

2 1. The objective of this Act is to prevent and suppress piracy,
3 armed robbery and any other unlawful act against a ship, aircraft and any
4 other maritime craft, howsoever propelled, including fixed or floating
5 platform.

Objectives of the Act

6 2.-(1) This Act applies to any person on board a-

Application of the Act

7 (a) ship or aircraft navigating in, 'on or above the territorial and
8 internal waters of Nigeria or on or above international waters; or

9 (b) fixed or floating platform in, on or above the territorial and
10 internal waters of Nigeria or on or above international water.

11 (2) This Act applies, in the following circumstances, to a person,
12 ship, aircraft in on or above international water in-

13 (a) relation to Piracy; and

14 (b) the case of any' other offence under this Act, where the-

15 (i) offender or alleged offender is found outside Nigeria but is in the
16 territory of a State Party to the SUA Convention or any other similar
17 Convention to which Nigeria is a Party, and

18 (ii) offence has been committed on board a ship or vessel flying the

1 flag of a Party to the SUA Convention.

2 (3) Where a state of armed conflict exists to which Nigeria is either a
3 Neutral Party or is a Party to the armed conflict and the conflict has a maritime
4 aspect involving Nigeria, the Laws of Armed Conflict shall apply in addition to
5 the provisions of this Act.

6 (4) Where during such conflict, any of the provisions of this Act is
7 inconsistent with the Law of Armed Conflict, then the Law of Armed Conflict
8 shall have priority and the provisions of this Act shall be applied in a manner to
9 make them compliant with the Law of Armed Conflict.

Acts of piracy

10 3. Piracy consists of any-

11 (a) illegal act of violence, act of detention, or any act of depredation,
12 committed for private ends by the crew or any passenger of a private ship or
13 private aircraft and directed

14 (i) in International Waters against another ship or aircraft or against a
15 person or property on board the ship or aircraft, or

16 (ii) against a ship, aircraft, person or property in a place outside the
17 jurisdiction of any state;

18 (b) act of voluntary participation in the operation of a ship or of an
19 aircraft with knowledge of facts making it a pirate ship or aircraft; and

20 (c) act of inciting or of intentionally facilitating an act described in
21 subparagraph (a) or (b) of this section.

Maritime offences
and unlawful acts
at sea

22 4. A maritime offence includes armed robbery at sea and any other
23 act, other than piracy under this Act, committed by any person or group of
24 persons where that person or group of persons or their sponsors unlawfully
25 within the Nigerian Maritime Zone or Nigerian Jurisdiction-

26 (a) seizes or exercises control over any ship, aircraft, fixed or floating
27 platform or cargo by force or threat or any other form of intimidation;

28 (b) performs any act of violence against a person on board a ship, an
29 aircraft or a fixed or floating platform If that act is likely to endanger the safe
30 navigation of the ship or aircraft or the safety of the fixed or floating platform;

1 (c) destroys a ship or an aircraft or causes damage to a ship or an
2 aircraft or to its cargo which is likely to endanger the safe navigation of the
3 ship or aircraft or destroys a fixed or floating platform or causes damage to
4 it, which may likely endanger its safety;

5 (d) places or causes to be placed on a ship, an aircraft, or a fixed or
6 floating platform by any means whatsoever, a device or substance which is
7 likely to destroy the ship or aircraft or cause damage to the ship or aircraft or
8 its cargo or which endangers or is likely to endanger the safe navigation of
9 the ship or aircraft;

10 (e) destroys or damages any maritime navigational facility or
11 seriously interferes with its operation, if any such act is likely to endanger
12 the safe navigation of a ship or an aircraft or the safety of a fixed or floating
13 platform; ,

14 (f) communicates information which he knows to be false, thereby
15 endangering the safe navigation of a ship or an aircraft or the safety of a fixed
16 or floating platform;

17 (g) receives, whether or not as a bank or other financial institution,
18 or demands ransom or any other monetary payment in respect of or in
19 connection with piracy or any other maritime offence or unlawful act under
20 this Act;

21 (h) falsely pretends to have suffered or become a victim of piracy,
22 any maritime offence or unlawful act under this Act, whether or not the false
23 pretence is for the purpose of demanding or receiving ransom or other
24 monetary payment;

25 (i) when the purpose of the act, by its nature or context, is to
26 intimidate a population, or to compel whether a Local, State or the Federal
27 Government in Nigeria or an international organisation, to do or abstain
28 from doing any act;

29 (j) uses against or on a ship, an .. aircraft or a fixed or floating
30 platform or discharges from a ship, an aircraft or a fixed or floating platform

1 any explosive, radioactive material or BRCN weapon in a manner that causes
2 or is likely to cause death or serious injury or damage;

3 (k) discharges or allows to escape, from a ship, an aircraft or a fixed or
4 floating platform, oil, petroleum products, liquefied natural gas, or any other
5 hazardous or noxious substance in a quantity or concentration that causes or is
6 likely to cause death or serious injury or damage;

7 (l) uses a ship or an aircraft in a manner that causes death or serious
8 injury or damage;

9 (m) threatens, with or without a condition, whether as to ransom or
10 otherwise, aimed at compelling a physical or juridical person to do or refrain
11 from doing any act or to commit any of the unlawful acts specified in this
12 section, if that threat is likely to endanger the safe navigation of a ship or an
13 aircraft or the safety of a ship or a fixed or floating platform; or

14 (n) transports on board a ship or an aircraft-

15 (i) any explosive or radioactive material, knowing that it is intended to
16 be used as a threat or to cause death or serious injury or damage for the purpose
17 of intimidating a population or compelling a Local, State or the Federal
18 Government or an international organisation to do or abstain from doing any
19 act;

20 (ii) any BRCN weapon, knowing it to be a BRCN weapon as defined
21 in this Act; or any source material, special fissionable material, equipment or
22 material especially designed or prepared for the processing, use or production
23 of special fissionable material, knowing that it is intended to, be used in a
24 nuclear explosive activity or any other nuclear activity not under safeguards to
25 an International Atomic Energy Agency comprehensive safeguards agreement,
26 and

27 (iii) any equipment, material software or related technology that
28 significantly contributes to the design, manufacture or delivery of a BRCN
29 weapon, with the intention that it will be used for such purpose; provided that it
30 shall not be an offence under this Act, if any item is transported to and from the

1 territory of or under the control of a State Party to the Treaty on the Non-
2 Proliferation of Nuclear Weapons, where the resulting transfer, receipt or the
3 holding of such items is not contrary to the State Party's obligations under
4 that Treaty;

5 (o) transports another person on board a ship or aircraft knowing
6 that the person committed an act that constitutes an offence defined as piracy
7 or unlawful act under this Act or intending to assist that person to evade
8 criminal prosecution;

9 (p) injures or kills any person in connection with the commission of
10 any of the offences specified in this section or seizes, detains and threatens to
11 kill, injure or continue to detain another person taken hostage in order to
12 compel a third party namely a State or an international organisation or a
13 natural or juridical person or a group of persons, to abstain from doing any
14 act as an explicit or implicit condition for the release of the hostage;

15 (q) attempts to commit, or participates as an accomplice in, or
16 organises or directs others to commit an act specified in this section or
17 contributes to the commission of one or more of the offences specified in
18 this section by a group of persons acting with a common purpose of
19 intentionally and with the aim of furthering the criminal activity or criminal
20 purpose of the group, where such activity or purpose involves the
21 commission of the offence; and

22 (r) receives by any means directly or indirectly, or either keeps or
23 transfers sells or aids in concealing or in disposing of any money, cargo or
24 property, ransom or proceeds of piracy or an unlawful act, whether or not
25 used to carry out any offence under this Act, and does not immediately after
26 such receipt or collection, report same to the relevant authority.

27 5.-(1) Subject to the provisions of the Constitution and the
28 Administration of Criminal Justice Act that relates to the powers of
29 prosecution by the Attorney-General of the Federation, prosecution of all
30 offences under this Act shall be undertaken by-

Trial offences

- 1 (a) the Attorney-General of the Federation;
 2 (b) any Law Officer so designated from the Attorney-General of the
 3 Federation's office; or
 4 (c) the Agency, with the consent of the Attorney-General of the
 5 Federation.

6 (2) The Federal High Court of Nigeria shall, to the exclusion of all
 7 other Courts, have jurisdiction to hear and determine any matter under this Act.

8 (3) The Court may try any of the offences under this Act, where it is
 9 committed-

10 (a) against or on board a ship registered in Nigeria or flying the
 11 Nigerian flag at the time the offence was committed;

12 (b) against or on board a fixed or floating platform located on the
 13 Continental-Shelf of Nigeria;

14 (c) against a Citizen of Nigeria;

15 (d) in Nigerian territory including its territorial waters;

16 (e) by a Nigerian citizen; or

17 (f) in the case of piracy, against any ship or aircraft outside the
 18 territorial waters of Nigeria or in international waters.

Additional bases
of assuming
jurisdiction

19 6.-(1) In addition to the jurisdiction conferred under Section 5 of this
 20 Act, proceedings may be commenced against a person for an offence under this
 21 Act, where the alleged offence-

22 (a) was committed on board a ship-

23 (i) on, or scheduled to engage in an international voyage; or

24 (ii) in the international sea or internal waters of a foreign country; and

25 (b) had a Nigerian element or an UNCLOS or SUA Convention
 26 element or involves several elements part of which relate to Nigeria.

27 (2) For the purposes of this section, an offence under this Act has a
 28 Nigerian element where the-

29 (a) ship concerned is a Nigerian ship;

30 (b) offence was committed against a citizen of Nigeria; or

1 (c) alleged offender is a citizen of Nigeria.

2 (3) For the purposes of this section, an offence under this Act has
3 SUA Convention element where any of the following circumstances apply -

4 (a) the ship-concerned is a ship flying the flag of a State Party to the
5 SUA Convention;

6 (b) the ship concerned was in the territorial sea or internal waters
7 of a Party to the SUA Convention;

8 (c) the alleged offender is, a national of a State Party to the SUA
9 Convention;

10 (d) the alleged offender is stateless and habitually resident in a
11 SUA Convention State;

12 (e) during the commission of the alleged offence, a national of a
13 Party to the SUA Convention was seized, threatened, injured or killed; and

14 (f) the alleged offence was committed in an attempt to compel a
15 Party to the SUA Convention to do or to abstain from doing any act.

16 (4) For the purposes of this section, an offence under this Act has an
17 UNCLOS element where any of the offences committed relates to the
18 offences created or provided for by UNCLOS.

19 7.-(1) A member of the relevant authority may seize-

20 (a) a ship or aircraft that is reasonably believed to be a pirate-
21 controlled ship or aircraft, or other vessel associated with an offence under
22 this Act; or

23 (b) anything that appears to be connected with the commission of
24 an offence under this Act.

25 (2) A seizure may be effected-

26 (a) anywhere in Nigeria;

27 (b) in, on or above international waters; or

28 (c) in, on or above a place beyond the Jurisdiction of any country.

29 (3) In international waters, or in any other place outside the
30 jurisdiction of Nigeria's territorial waters, any pirate ship or aircraft taken by

Seizure of
vessels or aircraft
used for maritime
offences

1 pirates and that is under their control and the property and cargo on board shall
2 be seized and the persons or pirates onboard arrested and prosecuted subject to
3 the rights of third parties acting in good faith.

4 (4) The acts stated in this section shall only be undertaken and
5 effected by a ship or aircraft of the relevant authority clearly marked and
6 identifiable as being on Government service and authorised to that effect.

Arrest Custody
and Preliminary
Inquiry into the
facts of the
Offences

7 8.-(1) Where a person is arrested on reasonable suspicion of having
8 committed any offence under this Act, the relevant law enforcement or
9 authorised official may direct that the person arrested be detained in custody
10 for a reasonable period of time from his arrest.

11 (2) The person referred to in subsection (1) of this section shall either
12 be taken into custody or other measures shall be taken against him in order to
13 ensure his presence for such time as may be necessary to enable any criminal or
14 extradition proceedings be instituted against him.

15 (3) Notwithstanding subsections (1) and (2) of this section, a
16 preliminary inquiry shall be made into the facts of the offence; provided that
17 the offender or alleged offender shall be entitled to-

18 (a) communicate without delay with the nearest appropriate
19 representative of his country or a country which is otherwise entitled to
20 establish such communication, or if he is a Stateless person, the country in
21 which he has his habitual residence; and

22 (b) be visited by a representative of his country or the country in
23 which he habitually resides if he is stateless.

24 (4) The rights conferred by subsection 3 of this section shall be
25 exercised in accordance with the Constitution and other relevant laws.

Notification of
custody, detention
and report of
findings of
preliminary
inquiry

26 9.-(1) The court may, pursuant to an ex-parte application, grant an
27 order for the detention of a suspect arrested under this Act for a period not
28 exceeding 90 days subject to renewal for a similar period until the conclusion
29 of the investigation and detention is dispensed with.

30 (2) Any law enforcement or authorised official may use reasonable

1 force as may be necessary for the exercise of the powers conferred by
2 subsection (1) of this section.

3 (3) Any person found in any premises, place or conveyance, may
4 be detained by the relevant law enforcement or authorised official until the
5 completion of the search or investigation under this Act.

6 (5) Where an alleged offender has been taken into custody within
7 Nigeria's jurisdiction, the Agency shall-

8 (a) notify any State Party to the SUA Convention that has
9 established jurisdiction over the alleged offender in custody in accordance
10 with section 6 of this Act or has an interest in him on circumstances
11 warranting his detention; and

12 (b) promptly give a report of its preliminary findings or inquiry as
13 to whether jurisdiction is intended to be exercised or not.

14 PART II - OFFENCES/PUNISHMENTS, FORFEITURE AND RESTITUTION

15 10. Notwithstanding anything contained in any other Act, any
16 person who commits or attempts to commit, facilitates, aids, abets,
17 conspires, or participates in-

18 (a) an act of Piracy; or

19 (b) any maritime offence or unlawful act under this Act, shall be
20 liable, on conviction, to any penalty or punishment as provided for under
21 this Act.

22 11. It shall not be an offence under this Act to transport-

23 (a) an item or material which is of any source material, special
24 fissionable material, or equipment or material especially designed or
25 prepared for the processing, use or production of special fissionable
26 material, knowing that it is intended to be used; or

27 (b) any equipment, material, software or related technology that
28 significantly contributes to the design, manufacture or delivery of a BRCN
29 weapon, which relates to ~ nuclear weapon or other nuclear explosive
30 device, intended to be used for the purpose specified in paragraph (a) of this

Offences by
persons and ships

Exclusion of
certain act

1 section, provided that it is intended to be used in a nuclear explosive activity or
2 any other nuclear activity not under any of the safeguards pursuant to an
3 International Atomic Energy Agency comprehensive safeguards agreement,
4 where such item, material or equipment is transported to or from the territory
5 of, or is otherwise transported under the control of a State party to the Treaty on
6 the Non-Proliferation of Nuclear Weapons where the-

7 (i) resulting transfer or receipt, including internal by Nigeria, of the
8 item or material is not contrary to Nigeria's or a State Party's obligations under
9 the Treaty on the Non-Proliferation of Nuclear Weapons; and

10 (ii) item or material is intended for the delivery system of a nuclear
11 weapon or other nuclear explosive device of Nigeria or State Party to the Treaty
12 on the Non-Proliferation of Nuclear Weapons, and the holding of such weapon
13 or device is not contrary to Nigeria's or such State Party's obligations under the
14 Treaty.

Punishments
for piracy,
maritime offences
and other
unlawful acts

15 **12.-(1)** Any person who commits an act of piracy, armed robbery at
16 sea or any other unlawful act under this Act, whether or not he was armed with a
17 firearm or other weapon during the commission of the offence, shall be liable
18 on conviction to life imprisonment and to a fine of not more than
19 N250,000,000, in addition to the restitution to the owner or forfeiture to the
20 Federal Government of Nigeria of whatever the person has obtained or gained
21 from the commission of the crime.

22 (2) Where any person-

23 (a) commits a maritime offence, armed robbery at sea or unlawful act
24 apart from piracy, depending on the nature and severity of the maritime offence
25 and during the commission of the offence was in possession of or had under his
26 control any firearm, explosive, or BRCN weapon, shall be liable on conviction
27 to not less than 15 years imprisonment, in addition to and without prejudice to
28 the restitution to the owner or forfeiture to the Federal Government of Nigeria
29 of whatever property or gains he has obtained from the maritime offence or
30 unlawful act; and

1 (b) referred to in subsection (1) of this section, causes-

2 (i) grievous bodily harm to another person during the commission
3 of an offence under this Act, or was in the company of any person who
4 caused grievous bodily harm to any person during the commission of an
5 offence under this Act, shall be liable on conviction to not less than 15 years
6 imprisonment, in addition to and without prejudice to the restitution to the
7 owner or forfeiture to the Federal Government of Nigeria of whatever
8 property or gains he has obtained from the piracy or unlawful act, and

9 (ii) the death of any person shall, on conviction be liable to life
10 imprisonment without the possibility of parole, in addition to and without
11 prejudice to the restitution to the owner or forfeiture to the Federal
12 Government of Nigeria of whatever property or gains he has obtained from
13 the piracy or unlawful act.

14 (3) Any body corporate or entity that commits an offence of-

15 (a) piracy, shall be liable on conviction to a fine of not less than
16 N500,000,000 and each of its directors or principal officers or any person
17 responsible for its management and control, shall be liable to a fine of not
18 less than N100,000,000 and imprisonment for not less than 15 years each in
19 addition to the restitution to the owner or forfeiture to the Federal
20 Government of Nigeria of whatever property or gains it has, or such officers
21 have, obtained from the piracy;

22 (b) any other maritime offence or unlawful act as defined under this
23 Act, shall be liable on conviction to a fine of not less than N350,000,000 and
24 each of its directors or principal officers or any person responsible for its
25 management and control shall be liable to a fine of not less than
26 N100,000,000 each and imprisonment for not less than 12 years each, in
27 addition to the restitution to the owner or forfeiture to the Federal
28 Government of whatever property or gains it has or such officers have
29 obtained from the maritime offence or the unlawful act;

30 (c) a pirate ship, aircraft or property seized or forfeited due to an act

1 of piracy shall be subject to the rights of third parties acting in good faith;
2 provided that where the seizure of a ship or an aircraft on suspicion of piracy
3 has been effected without reasonable grounds, the relevant authority deploying
4 the law enforcement or authorised official making the seizure shall be liable to
5 pay damages to the party whose aircraft, ship or property was illegally seized,
6 for any loss or damage caused by the seizure or forfeiture;

7 (d) any Commander, or crew member of a government ship or
8 aircraft, or any officer of a relevant authority, who-

9 (i) aids, abets, or counsels the commission of any offence under this
10 Act;

11 (ii) threatens to commit an offence under this Act; or

12 (iii) who becomes an accessory after the fact to an offence under this
13 Act,

14 commits an offence under this Act and shall be liable on conviction to
15 not less than 15 years imprisonment, in addition to the restitution to the owner
16 or forfeiture to the Federal Government whatever the person has obtained or
17 gained from the commission of the crime; and

18 (e) any owner, Master, crew member, seafarer, passenger or person
19 who allows or permits any ship, aircraft, fixed or floating platform, cargo or
20 other property or place occupied by him or which he has control or possession
21 of, to be used for the purpose of keeping an owner, master, crew member,
22 seafarer or person kidnaped or to be kidnaped, abducted or taken hostage on
23 board a ship, commits an offence and shall on conviction be liable on
24 conviction to not less than 21 years imprisonment and a fine of not less than
25 N250,000,000.

Punishment for
attempted piracy,
maritime offences
and other unlawful
acts

26 13.-(1) Any person who attempts to commit-

27 (a) any act of piracy shall be liable on conviction to not less than 12
28 years imprisonment and to a fine of not less than N100,000,000;

29 (b) a maritime offence or any other unlawful act shall on conviction be
30 liable to 10 years imprisonment and to a fine of not less than N75,000,000;

1 (c) where any person referred to in subsection (1) of this section-

2 (i) was during the commission of the offence in possession of or
3 had under his control any firearm, explosive, or BRCN weapon, he shall on
4 conviction be liable to not less than 5 years imprisonment and to a fine of not
5 less than N100,000,000,

6 (ii) causes grievous bodily harm to any person during the
7 commission of an offence under this Act, or acted in company of any person
8 who caused grievous bodily harm to any person during the commission of an
9 offence under this Act, the person shall on conviction be liable to not less
10 than 15 years imprisonment and to a fine of not less than N150,000,000;

11 (c) intentionally causes the death of any person shall on conviction,
12 be liable to life imprisonment and to a fine of not less than 250,000,000, in
13 addition to the restitution to the owner or forfeiture to the Federal
14 Government of whatever property or gains obtained from the act;

15 (d) Any person who-

16 (i) carries out any act intended to aid, abet, conspire, counselor
17 procure the commission of any maritime offence as defined under this Act,
18 or threatens to commit any such act, or

19 (ii) becomes an accessory after the fact to any maritime offence or
20 any other unlawful act commits an offence under this Act and shall be liable
21 on conviction to not less than 12 years imprisonment and to a fine of not less
22 than N75,000,000; and

23 (c) nothing in this Act shall preclude the taking of civil action by an
24 aggrieved person against any person that is convicted under this Act in the
25 case of loss or damage to property or loss of life or injury that the convicted
26 person caused in connection with an incident of piracy or unlawful act.

27 14. Any person who wilfully sells, destroys, materially alters or
28 otherwise disposes of any substance, equipment or property seized pursuant
29 to investigation and intended for criminal prosecution under this Act save by
30 an order of the Court with jurisdiction to adjudicate on the offences under

Wilful destruction
of evidence

1 this Act, commits an offence and, shall, on conviction, be sentenced to a term of
2 not less than 12 years imprisonment and restitution for the value of any
3 property destroyed or altered.

Obstruction

4 **15.-(1)** Any person who-

5 (a) obstructs any law enforcement or authorised official in the
6 exercise of any of the powers or duties conferred or imposed on the law
7 enforcement or authorised official under this Act; or

8 (b) fails to comply with any lawful enquiry or requirement made by
9 any law enforcement or authorised official in accordance with the provisions of
10 this Act, commits an offence and is liable on conviction to imprisonment of not
11 less than 10 years and a fine of not less than N5,000,000.

12 (2) In this section, obstruction includes-

13 (a) willfully or knowingly participating in, or having knowledge of
14 and failing to report, the destruction, mutilation, concealment, substitution,
15 falsification, alteration, false representation, written or orally, of any
16 statement, document, electronic device, telecommunication device or
17 message, or physical object with the intent to impede, divert, stall, destroy, or
18 influence the activities of any prosecutor, law enforcement or authorised
19 official in the exercise of any of the powers or duties conferred upon them
20 under this Act;

21 (b) acts in a manner which represents an intention, suspicion, or
22 attempt to carry out any of the instances in sub-section (1) of this section;

23 (c) the use of corruption, written or oral threat of force or assault, acts
24 of coercion, to affect the proper process of investigation and the due
25 administration of justice by any suspect against prosecutors, law enforcement
26 or authorised officials in the exercise of any of the powers or duties conferred
27 by this Act;

28 (d) the refusal to act or speak, to provide aid, assistance, or evidence to
29 a prosecutor or law enforcement or authorised official in the exercise of any of
30 the powers or duties conferred by this Act; and

1 (c) the intention or physical attempt, orally or in writing of any law
2 enforcement or authorised official, prosecutors, judges, elected officers,
3 government official, civil or public servant, member of the armed forces or
4 any joint task force operating under this Act, to tamper with or suppress
5 evidence or act in any manner mentioned in paragraphs (a), (b), (c), and (d)
6 of this sub section in order to affect an investigation, process of justice,
7 record keeping or the activities of any prosecutor or law enforcement or
8 authorised official in the exercise of the powers or duties conferred by this
9 Act.

10 PART III - INCIDENT REPORTING AND EVIDENCE PRESERVATION

11 16.-(1) Any incident, which may constitute an offence under this
12 Act shall be reported by any of the following persons or entities, provided
13 the person or the entity has knowledge of the incident-

Reporting of
incidents of
piracy, maritime
offences and other
unlawful acts

14 (a) the Master;

15 (b) the ship-owner or manager;

16 (c) the crew representative;

17 (d) the cargo representative;

18 (e) the insurers;

19 (f) the relevant authority; and

20 (g) any other person having knowledge of the incident.

21 (2) The report shall be-

22 (a) made without delay to the relevant authority after having the
23 knowledge of the incident; and

24 (b) sent to the Agency in the form provided for by the Agency.

25 (3) Any of the persons listed in subsection (1) of this section may
26 file a joint report or forward with a comment on the report the occurrence
27 made by another listed person or entity.

28 (4) The Agency shall make and send a report of the circumstances
29 concerning, each incident or offence, the action taken and measures taken in
30 relation to the offender or alleged offender and the result of any extradition

1 proceedings or other legal proceedings or prosecution of the offender or
2 alleged offender without delay and in the required formats, to the Secretary-
3 General of the International Maritime Organisation (IMO).

4 (5) Where a person has information, which he knows or believes, will
5 be of material assistance in-

6 (a) preventing the commission by any person or an organisation of an
7 act of piracy or maritime offences or other unlawful act under this Act, or

8 (b) securing the apprehension, prosecution or conviction of another
9 person for an offence under this Act, but fails to disclose such information to
10 any law enforcement or relevant authority as soon as reasonably practicable,
11 such a person commits an offence under this Act and shall be liable on
12 conviction to a fine of not less than N5,000,0000.

13 (6) Notwithstanding subsection (5) of this section, a person shall not
14 be liable in respect of any information disclosed to a legal practitioner based on
15 his belief or suspicion, which he obtained in privileged circumstances.

16 (7) For the purpose of subsection (6) of this section, information is
17 obtained by a legal practitioner in privileged circumstances, where it is
18 disclosed to him by-

19 (a) his client in connection with the provisions of legal advice, not
20 being a disclosure with a view to furthering a criminal purpose; or

21 (b) any person for the purpose of actual or contemplated legal
22 proceeding and not with a view to furthering a criminal purpose.

Coordination
of maritime
activities

23 17.-(1) The Minister shall provide support to the relevant authority to
24 prevent and combat piracy, maritime offences and any other unlawful acts
25 prohibited by this Act.

26 (2) The Agency shall under the supervision of the Minister, be the
27 coordinating body for all maritime activities under this Act and shall-

28 (a) ensure the effective formulation and implementation of a
29 comprehensive maritime strategy;

30 (b) collaborate with the Navy to build capacity for the effective

1 discharge of all relevant security, intelligence and law enforcement under
2 this Act or any other law on maritime offences in Nigeria; and

3 (c) do any other act as may be necessary for the implementation
4 this Act.

5 (3) The law enforcement and security agencies shall be responsible
6 for the gathering of intelligence, patrolling the waters and investigating the
7 offences provided for under this Act.

8 (4) In addition to subsection (3) of this section, the law
9 enforcement agencies shall have power to-

10 (a) enforce the provisions of this Act;

11 (b) adopt any measure to prevent and combat maritime crime
12 within Nigeria's territory;

13 (c) facilitate the detection and investigation of maritime offences
14 and other unlawful acts;

15 (d) establish, maintain and secure domestic, regional and
16 international communication to facilitate the rapid exchange of information
17 concerning maritime crime;

18 (e) conduct research with the aim of improving preventive
19 measures to efficiently and effectively combat maritime offences and other
20 unlawful acts; and

21 (f) partner with any other maritime stakeholder, West African
22 neighbours, and other Nigerian maritime stakeholders to provide the
23 necessary education, support, information, awareness and sensitization
24 towards the prevention and elimination of maritime offences and other
25 unlawful acts.

26 (5) Subject to the provision of this Act, any of the law enforcement
27 agencies shall have the power to-

28 (a) investigate, whether any person or entity has directly or
29 indirectly committed an offence or is about to commit an offence or has been
30 involved in the commission of an offence under this Act or any other law;

1 (b) execute a search warrant as granted by the courts authorising any
2 police officers or other law enforcement officials to enter into any vessel,
3 motor ship, tanker, passenger ship or conveyance for the purpose of conducting searches
4 in furtherance of its functions under this Act or under any other law;

5 (c) investigate, arrest and provide evidence for the prosecution of any
6 offence under this Act or any other maritime law;

7 (d) seize, detain or maintain custody of any maritime offender's
8 property or funds for the purpose of investigation, prosecution or recovery of
9 any property or funds which the law enforcement and security agencies
10 reasonably believe to have been involved in the preparation of maritime crime
11 activities in Nigeria or outside Nigeria;

12 (e) seal up any premises upon reasonable suspicion that the premises
13 is being used or involved in connection with maritime crime;

14 (f) adopt measures to identify, trace, freeze, seize maritime crime
15 properties as required by the law and seek for the confiscation of proceeds
16 derived from a maritime offence whether situate within or outside Nigeria;

17 (g) request or demand for, and obtain from any person, agency or
18 organisation, information, including any report or data that maybe relevant to
19 its functions; and

20 (h) appoint an expert or a professional, where necessary, to execute
21 the powers required in furtherance to its functions under this Act.

22 (6) The law enforcement agencies may initiate, develop or improve
23 on specific training programmes for its officers charged with the responsibility
24 for the prevention, detection investigation, elimination and prosecution of
25 maritime crime in Nigeria.

26 **18.** The Agency may enter into cooperation agreements or
27 arrangements with any national or international body, other intelligence, law
28 enforcement or security agencies or organisations, which in its opinion, will
29 facilitate the discharge of its functions under this Act.

Power to enter
agreements,
arrangements
etc.

1 19.-(1) The Agency shall, under the supervision of the Minister,
2 establish and maintain a Fund to be known as the Piracy and Maritime
3 Offences Fund (hereinafter referred to as "the Fund").

Piracy and
Maritime Offences
Fund

4 (2) The Fund shall be used for the implementation of this Act.

5 (3) There shall be paid and credited to the Fund-

6 (a) such monies as may in each year be approved by the Federal
7 Government for the implementation of the Act;

8 (b) gifts, financial contributions by beneficiaries of the services of
9 the maritime law enforcement agencies' duties under this Act;

10 (c) 35 % of the proceeds of the sales of any property seized and
11 anything forfeited under this Act including instruments used in the
12 commission of crimes and of criminal activity under this Act;

13 (d) contribution from the maritime fund under the Nigerian
14 Maritime Administration and Safety Agency Act 2007; and

15 (e) contribution from the Cabotage Vessel Financing Fund under
16 the Coastal and Inland Shipping (Cabotage) Act, 2003.

17 (4) The Agency shall keep proper accounts in the form which
18 conforms with accepted standards of its receipts, payments, assets and
19 liabilities concerning the performance of its duties under this Act and shall
20 submit the accounts annually for auditing by a qualified auditor in
21 accordance with the guidelines of the Auditor General for the Federation.

22 PART IV - MISCELLANEOUS

23 20.-(1) The Minister may make or cause to be made by the Agency,
24 Regulations or Guidelines for the implementation of any of the provisions of
25 this Act.

Power to make
Regulations and
Guidelines

26 (2) The Regulations or Guidelines made pursuant to this Act shall
27 not have effect and come into force until published in the Federal
28 Government official Gazette.

29 21. Any provision of any existing Act or its subsidiary legislation
30 with respect to piracy or any unlawful act that overlaps with or that is

Consequential
amendment

1 inconsistent or is in conflict with any of the provisions of this Act is repealed
2 with effect from the commencement of this Act if it relates to any matter under
3 this Act or shall be read in conformity with the provisions of this Act.

Interpretation

4 **22.** In this Act, unless the context otherwise requires-

5 "Agency" means the Nigerian Maritime Administration and Safety Agency
6 established under the Nigerian Maritime Administration and Safety Agency
7 Act, 2007;

8 "Aircraft" means an airplane, helicopter, or other machine capable of flight;

9 "Armed Robbery at Sea" includes any illegal act of violence or detention or any
10 act of depredation or threat thereof other than an act of piracy, directed against a
11 ship or an aircraft or against persons or property onboard such a ship or an
12 aircraft, committed within the Nigerian internal waters and territorial waters;
13 and for the purpose of criminalization and punishment, all acts of armed
14 robbery at sea are deemed to be included within the meaning of "Unlawful Act"
15 in this Act;

16 "Bank" has the same meaning as defined in section 66 of the Banks and Other
17 Financial Institutions Act, 2004;

18 "BRCN Weapon" means Biological Radiological Chemical Nuclear Weapon
19 and it includes-

20 (a) a biological weapon which, is microbial or any other biological
21 agent, or a toxin whatever its origin or method of production, of types and in
22 quantities that have no justification for prophylactic protective or any other,
23 peaceful purpose; or a weapon, equipment or any means of delivery designed
24 to use the agent or toxin for a hostile purpose or in armed conflict;

25 (b) chemical weapons, which is together or separately toxic
26 chemicals and their precursors, except where intended for-

27 (i) industrial, agricultural, research, medical, pharmaceutical or other
28 peaceful purposes,

29 (ii) protective purposes, particularly purposes' that are directly related

1 to protection against toxic chemicals and to protection against chemical
2 weapons,

3 (iii) military purposes not connected with the use of chemical
4 weapons and not dependent on the use of the toxic properties of chemicals as
5 a method of warfare, and

6 (iv) law enforcement" including domestic riot control purposes,
7 where the types and quantities are consistent with such purposes;

8 (c) munitions and devices specifically designed to cause death or
9 other harm through the toxic properties of those toxic properties of those
10 toxic chemicals specified in paragraph (b) of this section, which may be
11 released as a result of the employment of such munitions and devices;

12 (d) any equipment specifically designed for use directly in
13 connection with the employment of munitions and devices specified in
14 paragraph (c) of this section; and

15 (e) nuclear weapons and other nuclear explosive devices;

16 "Constitution" means the Constitution of the Federal Republic of Nigeria,
17 1999 (as amended);

18 "Cargo" includes any substance or article, livestock; mineral, ware, crude
19 oil, petroleum products, property and merchandise of any' description and
20 any container-or other item used to contain any substance or article or
21 property carried onboard a ship but excluding Crew's personal effects;

22 "Court" means the Federal High Court of Nigeria;

23 "Crew members" in relation to a ship means the Captain or Master and all
24 other persons actually employed or engaged in the working or service of any
25 ship;

26 "Exclusive Economic Zone (EEZ)" means the area immediately adjacent to
27 the Territorial Sea of Nigeria and extending 200nm from the baselines that
28 establish the inner edge of the Territorial Sea of Nigeria;

29 "Floating platform" means any type of floating oil production or oil storage
30 facility including Floating Production Storage and Offloading system or

1 platform, Floating Storage and Offloading system or platform or Floating
2 Storage Unit, Tension-leg platforms, Spar platforms, Normally Unmanned
3 Installations (or toadstools) and Satellite Platforms;

4 "Firearm" means a barreled weapon from which any shot, bullet or other
5 projectile can be discharged and that is capable of causing serious bodily injury
6 or death to a person, and includes any frame or receiver of such a barreled
7 weapon and anything that can be adapted for use as a firearm;

8 "Fixed platform" means any artificial island, installation or structure
9 permanently attached to the seabed for the purpose of exploration or
10 exploitation of resources or for other economic purposes;

11 "Government vessel" means a ship owned or operated by a State and used only
12 on government non-commercial service;

13 "Grievous harm" means any harm which amounts to a maim or dangerous harm
14 as defined in this section, or which seriously or permanently injures health) or
15 which is likely to so injure health, or which extends to permanent
16 disfigurement or to any permanent or serious injury to any external or internal
17 organ, member or sense;

18 mans or animals. This includes all such chemicals, regardless of their origin or
19 of their method of production and whether or not they are produced in facilities,
20 in munitions or elsewhere; and

21 "Warship" means a ship belonging to the armed forces of a State bearing the
22 external marks distinguishing such ships of its nationality, under the command
23 of an officer duly commissioned by the government of the State and whose
24 name appears in the appropriate service list or its equivalent, and manned by a
25 crew which is under regular armed forces discipline.

Short title

26 **23.** This Bill may be cited as the Suppression of Piracy and other
27 Maritime Offences Bill, 2018.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the Suppression of Piracy and other Maritime Offences, give effect to the provisions of the United Nations Convention on the law of the sea, (UNCLOS) 1982 the Convention for the Suppression of unlawful Acts against the safety of Maritime navigation (SUA) 1988 and it's protocols,

