

SUPPRESSION OF PIRACY AND OTHER MARITIME OFFENCES ACT, 2019

EXPLANATORY MEMORANDUM

This Act provide for the Suppression of Privacy and other Maritime Offences, give effect to the provision 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 its Protocols.

SUPPRESSION OF PIRACY AND OTHER MARITIME OFFENCES ACT, 2019

Arrangement of Sections

Section:

PART I – ACTS OF PIRACY AND PROSECUTION OF MARITIME OFFENCES

1. Objectives of this Act.
2. Application of this Act.
3. Acts of piracy.
4. Maritime offences and unlawful acts at sea.
5. Trial of offences.
6. Additional bases of assuming jurisdiction.
7. Seizure of vessels or aircraft used for maritime offences.
8. Arrest, custody and preliminary inquiry into the facts of the offences.

PART II – OFFENCES, PUNISHMENTS, FORFEITURE AND RESTITUTION

9. Notification of custody, detention and report of findings of preliminary inquiry.
10. Offences by persons and ships.
11. Exclusion of certain acts.
12. Punishments for piracy, maritime offences and other unlawful acts.
13. Punishment for attempted piracy, maritime offences and other unlawful acts.
14. Wilful destruction of evidence.
15. Obstruction.

PART III - INCIDENTS REPORTING AND EVIDENCE PRESERVATION

16. Reporting of incidents of piracy, maritime offences and other unlawful acts.
17. Coordination of maritime activities.
18. Power to enter agreements, arrangements, etc.
19. Piracy and Maritime Offences Fund.

PART IV - MISCELLANEOUS

20. Power to make regulations and guidelines.
21. Consequential amendment.
22. Interpretation.
23. Citation.

SUPPRESSION OF PIRACY AND OTHER MARITIME OFFENCES ACT, 2019

A Bill

For

An Act to provide for the Suppression of Privacy and other Maritime Offences, give effect to the provision 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 its Protocols; and for related matters.

[]

Commencement

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

PART I — ACTS OF PIRACY AND PROSECUTION OF MARITIME OFFENCES

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

Objectives of this Act.

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

Application of this Act.

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

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

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

(a) relation to piracy; and

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

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

Convention, 1988.

(ii) offence has been committed on board a ship or vessel flying the flag of a Party to the SUA Convention.

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

this Act.

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

3. Piracy consists of any —

Acts of piracy.

- (a) illegal act of violence, detention or depredation committed for private ends by the crew or any passenger of a private ship or aircraft and directed —
 - (i) in international waters against another ship or aircraft or against a person or property on board the ship or aircraft, or
 - (ii) against a ship, aircraft, person or property in a place outside the jurisdiction of any State;
- (b) act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; and
- (c) act of inciting or intentionally facilitating an act described in subparagraph (a) or (b).

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

Maritime offences and unlawful acts at sea.

- (a) seizes or exercises control over any ship, aircraft, fixed or floating platform or cargo by force or threat or any other form of intimidation;
- (b) performs any act of violence against a person on board a ship, an aircraft or a fixed or floating platform if that act is likely to endanger the safe navigation of the ship or aircraft or the safety of the fixed or floating platform;
- (c) destroys a ship or an aircraft or causes damage to a ship or an aircraft or to its cargo which is likely to endanger the safe navigation of the ship or aircraft or destroys a fixed or floating platform or causes damage to it, which is likely endanger its safety;
- (d) places or causes to be placed on a ship, an aircraft, or a fixed or floating platform by any means whatsoever, a device or substance which is likely to destroy the ship or

aircraft or cause damage to the ship or aircraft or its cargo or which endangers or is likely to endanger the safe navigation of the ship or aircraft;

- (e) destroys or damages any maritime navigational facility or seriously interferes with its operation, if any such act is likely to endanger the safe navigation of a ship or an aircraft or the safety of a fixed or floating platform; ,
- (f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship or an aircraft or the safety of a fixed or floating platform;
- (g) receives, whether or not as a bank or other financial institution, or demands ransom or any other monetary payment in respect of or in connection with piracy or any other maritime offence or unlawful act under this Act;
- (h) falsely pretends to have suffered or become a victim of piracy, any maritime offence or unlawful act under this Act, whether or not the false pretence is for the purpose of demanding or receiving ransom or other monetary payment;
- (i) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel whether a Local, State or the Federal Government in Nigeria or an international organisation, to do or abstain from doing any act;
- (j) uses against or on a ship, an aircraft or a fixed or floating platform or discharges from a ship, an aircraft or a fixed or floating platform any explosive, radioactive material or BRCN weapon in a manner that causes or is likely to cause death or serious injury or damage;
- (k) discharges or allows to escape, from a ship, an aircraft or a fixed or floating platform, oil, petroleum products, liquefied natural gas, or any other hazardous or noxious substance in a quantity or concentration that causes or is likely to cause death or serious injury or damage;
- (l) uses a ship or an aircraft in a manner that causes death or serious injury or damage;
- (m) threatens, with or without a condition, whether as to ransom or otherwise, aimed at compelling a physical or juridical person to do or refrain from doing any act or to commit any of the unlawful acts specified in this section, if that threat is likely to endanger the safe navigation of a

ship or an aircraft or the safety of a ship or a fixed or floating platform;

(n) transports on board a ship or an aircraft any —

- (i) explosive or radioactive material, knowing that it is intended to be used as a threat or to cause death or serious injury or damage for the purpose of intimidating a population or compelling a Local, State or the Federal Government or an international organisation to do or abstain from doing any act;
- (ii) BRCN weapon, knowing it to be a BRCN weapon as defined in this Act or any source material, special fissionable material, equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or any other nuclear activity not under safeguards to an International Atomic Energy Agency comprehensive safeguards agreement, and
- (iii) equipment, material software or related technology that significantly contributes to the design, manufacture or delivery of a BRCN weapon, with the intention that it will be used for such purpose,

provided that it shall not be an offence under this Act, if any item is transported to and from the territory of or under the control of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, where the resulting transfer, receipt or the holding of such items is not contrary to the State Party's obligations under that Treaty;

- (o) transports another person on board a ship or aircraft knowing that the person committed an act that constitutes an offence defined as piracy or unlawful act under this Act or intending to assist that person to evade criminal prosecution;
- (p) injures or kills any person in connection with the commission of any of the offences specified in this section or seizes, detains and threatens to kill, injure or continue to detain another person taken hostage in order to compel a third party namely a State or an international organisation or a natural or juridical person or a group of

persons, to abstain from doing any act as an explicit or implicit condition for the release of the hostage;

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

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

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

Trial of offences.
Constitution, 1999.
Act No. 13, 2015.

(a) the Attorney-General of the Federation;

(b) any law officer so designated from the Attorney-General of the Federation's office; or

(c) the Agency, with the consent of the Attorney-General of the Federation.

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

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

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

(b) against or on board a fixed or floating platform located on the continental-shelf of Nigeria;

(c) against a citizen of Nigeria;

(d) in Nigerian territory including its territorial waters;

(e) by a Nigerian citizen; or

(f) in the case of piracy, against any ship or aircraft outside.

6. (1) In addition to the jurisdiction conferred under section 5, proceedings may be commenced against a person for an offence under this Act, where the alleged offence —
- Additional bases of assuming jurisdiction.

(a) was committed on board a ship —

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

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

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

Convention, 1982.

Convention, 1988.

(2) For the purposes of this section, an offence under this Act has:

(a) a Nigerian element where the —

(i) ship concerned is a Nigerian ship,

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

(iii) alleged offender is a citizen of Nigeria;

(b) has SUA Convention element where any of the following circumstances apply —

Convention, 1988.

(i) the ship concerned is a ship flying the flag of a State Party to the SUA Convention,

(ii) the ship concerned was in the territorial sea or internal waters of a Party to the SUA Convention,

(iii) the alleged offender is a national of a State Party to the SUA Convention,

(iv) the alleged offender is stateless and habitually resident in a SUA Convention State,

Convention, 1988.

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

(vi) the alleged offence was committed in an attempt to compel a Party to the SUA Convention to do or

to abstain from doing any act; and

- (c) has an UNCLOS element where any of the offences committed relates to the offences created or provided for by UNCLOS.

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

Seizure of vessels or aircraft used for maritime offences.

- (a) a ship or aircraft that is reasonably believed to be a pirate-controlled ship or aircraft, or other vessel associated with an offence under this Act; or
- (b) anything that appears to be connected with the commission of an offence under this Act.

(2) A seizure may be effected —

- (a) anywhere in Nigeria;
 - (b) in, on or above international waters; or
 - (c) in, on or above a place beyond the jurisdiction of any country.
- (3) In international waters, or in any other place outside the jurisdiction of Nigeria's territorial waters, any pirate ship or aircraft taken by pirates and that is under their control and the property and cargo on board shall be seized and the persons or pirates onboard arrested and prosecuted subject to the rights of third parties acting in good faith.
- (4) The acts stated in this section shall only be undertaken and effected by a ship or aircraft of the relevant authority clearly marked and identifiable as being on Government service and authorised to that effect.

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

Arrest, custody and preliminary inquiry into the facts of the offences.

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

(3) Notwithstanding subsections (1) and (2), a preliminary inquiry shall be made into the facts of the offence:

Provided that the offender or alleged offender is entitled to —

- (a) communicate without delay with the nearest appropriate representative of his country or a country which is

otherwise entitled to establish such communication, or if he is a Stateless person, the country in which he has his habitual residence; and

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

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

9. (1) The Court may, pursuant to an ex-parte application, grant an order for the detention of a suspect arrested under this Act for a period not exceeding 90 days subject to renewal for a similar period until the conclusion of the investigation and detention is dispensed with. Notification of custody, detention and report of findings of preliminary inquiry.

(2) A law enforcement or authorised official may use reasonable force as may be necessary for the exercise of the powers conferred by subsection (1).

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

(4) Where an alleged offender has been taken into custody within Nigeria's jurisdiction, the Agency shall —

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

Convention, 1988.

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

PART II — OFFENCES, PENALTIES, FORFEITURE AND RESTITUTION

10. Notwithstanding anything contained in any other Act, a person who commits or attempts to commit, facilitates, aids, abets, conspires, or participates in — Offences by persons and ships.

(a) an act of piracy, or

(b) any maritime offence or unlawful act under this Act,

is liable, on conviction, to any penalty or punishment as provided for under this Act.

11. It is an offence under this Act to transport —

Exclusion of certain acts.

(a) an item or material which is of any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use

or' production of special fissionable material, knowing that it is intended to be used; or

- (b) any equipment, material, software or related technology that significantly contributes to the design, manufacture or delivery of a BRCN weapon, which relates to nuclear weapon or other nuclear explosive device, intended to be used for the purpose specified in paragraph (a), provided that it is intended to be used in a nuclear explosive activity or any other nuclear activity not under any of the safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement, where such item, material or equipment is transported to or from the territory of, or is otherwise transported under the control of a State party to the Treaty on the Non-Proliferation of Nuclear Weapons where the —

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

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

12. (1) A person who commits an act of piracy, armed robbery at sea or any other unlawful act under this Act, whether or not he was armed with a firearm or other weapon during the commission of the offence, is liable on conviction to life imprisonment and a fine of not more than ₦50,000,000, in addition to the restitution to the owner or forfeiture to the Federal Government of Nigeria whatever the person has obtained or gained from the commission of the crime.

Punishments for piracy, maritime offences and other unlawful acts.

- (2) Where any person —

- (a) commits a maritime offence, armed robbery at sea or unlawful act apart from piracy, depending on the nature and severity of the maritime offence and during the commission of the offence was in possession of or had under his control any firearm, explosive, or BRCN weapon, is liable on conviction to at least 15 years imprisonment, in addition to and without prejudice to the restitution to the owner or forfeiture to the Federal Government of Nigeria, whatever property or gains he has obtained from the maritime offence or unlawful act;

and, causes —

- (i) grievous bodily harm to another person during the commission of an offence under this Act, or was in the company of any person who caused grievous bodily harm to any person during the commission of an offence under this Act, commits an offence and is liable on conviction to at least 15 years imprisonment, in addition to and without prejudice to the restitution to the owner or forfeiture to the Federal Government of Nigeria whatever property or gains he has obtained from the piracy or unlawful act, and
- (ii) the death of any person shall, commits an offence and is liable on conviction to life imprisonment without the possibility of parole, in addition to and without prejudice to the restitution to the owner or forfeiture to the Federal Government of Nigeria of whatever property or gains he has obtained from the piracy or unlawful act.

(3) A body corporate or entity that commits—

- (a) an offence of piracy, is liable on conviction to a fine of at least ₦500,000,000 and each of its directors or principal officers or any person responsible for its management and control, is liable to a fine of not less than ₦100,000,000 and imprisonment for at least 15 years each in addition to the restitution to the owner or forfeiture to the Federal Government of Nigeria whatever property or gains it has, or such officers have, obtained from the piracy; or
- (b) any other maritime offence or unlawful act as defined under this Act, is liable on conviction to a fine of at least ₦350,000,000 and each of its directors or principal officers or any person responsible for its management and control is liable to a fine of at least ₦100,000,000 each and imprisonment for at least 12 years each, in addition to the restitution to the owner or forfeiture to the Federal Government whatever property or gains it has or such officers have obtained from the maritime offence or the unlawful act.

(4) A pirate ship, aircraft or property seized or forfeited due to an act of piracy shall be subject to the rights of third parties acting in good faith, provided that where the seizure of a ship or an aircraft on suspicion of piracy has been effected without reasonable grounds, the relevant authority deploying the law enforcement or authorised official making the seizure is liable to pay damages to the party whose

aircraft, ship or property was illegally seized, for any loss or damage caused by the seizure or forfeiture.

(5) A Commander, or crew member of a Government ship or aircraft, or any officer of a relevant authority, who —

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

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

(c) who becomes an accessory after the fact to an offence under this Act,

commits an offence and is liable on conviction to at least 15 years imprisonment, in addition to the restitution to the owner or forfeiture to the Federal Government whatever the person has obtained or gained from the commission of the crime; and

(6) Any owner, master, crew member, seafarer, passenger or person who allows or permits any ship, aircraft, fixed or floating platform, cargo or other property or place occupied by him or which he has control or possession of, to be used for the purpose of keeping an owner, master, crew member, seafarer or person kidnapped or to be kidnapped, abducted or taken hostage on board a ship, commits an offence and is liable on conviction on conviction to a fine of at least ₦250,000,000 and imprisonment for at least 21 years.

13. (1) A person who attempts to commit —

(a) any act of piracy is liable on conviction to a fine of at least ₦100,000,000 or to imprisonment of at least 12 years and;

(b) a maritime offence or any other unlawful act, is liable on conviction to a fine of at least ₦75,000,000 and to imprisonment of 10 years and;

Punishment for attempted piracy, maritime offences and other unlawful acts.

(2) Where any person referred to in subsection (1) —

(a) was, during the commission of the offence, in possession of or had under his control any firearm, explosive, or BRCN weapon, he is liable on conviction to a fine of at least ₦100,000,000 and to imprisonment for at least five years and,

(b) causes grievous bodily harm to any person during the commission of an offence under this Act, or acted in company of any person who caused grievous bodily harm to any person during the commission of an offence under this Act, the person is liable on conviction to a

fine of at least ₦150,000,000 and imprisonment not less than 15 years;

- (c) intentionally causes the death of any person, is liable on conviction to a fine of at least ₦250,000,000 and to life imprisonment and, in addition to the restitution to the owner or forfeiture to the Federal Government whatever property or gains obtained from the act.

(3) A person who —

- (a) carries out any act intended to aid, abet, conspire, counselor procure the commission of any maritime offence as defined under this Act, or threatens to commit any such act, or
- (b) becomes an accessory after the fact to any maritime offence or any other unlawful act commits an offence under this Act and is liable on conviction to a fine of at least ₦75,000,000 and an imprisonment to at least 12 years.

- (4) Nothing in this Act shall preclude the taking of civil action by an aggrieved person against any person that is convicted under this Act in the case of loss or damage to property, loss of life or injury that the convicted person caused in connection with an incident of piracy or unlawful act.

14. A person who wilfully sells, destroys, materially alters or otherwise disposes of any substance, equipment or property seized pursuant to investigation and intended for criminal prosecution under this Act except by an order of the Court commits an offence and is liable on conviction, to be sentenced to imprisonment of at least 12 years and restitution for the value of any property destroyed or altered.

Wilful destruction of evidence.

15. (1) A person who —

Obstruction.

- (a) obstructs any law enforcement or authorised official in the exercise of any of the powers or duties conferred or imposed on the law enforcement or authorised official under this Act, or
- (b) fails to comply with any lawful enquiry or requirement made by any law enforcement or authorised official in accordance with the provisions of this Act,

commits an offence and is liable on conviction to a fine of at least ₦5,000,000 and an imprisonment of at least 10 years.

(2) In this section, “obstruction” includes —

- (a) willfully or knowingly participating in, or having

knowledge of and failing to report, the destruction, mutilation, concealment, substitution, falsification, alteration, false representation, written or orally, of any statement, document, electronic device, telecommunication device or message, or physical object with the intent to impede, divert, stall, destroy, or influence the activities of any prosecutor, law enforcement or authorised official in the exercise of any of the powers or duties conferred upon them under this Act;

- (b) acts in a manner which represents an intention, suspicion, or attempt to carry out any of the instances in subsection (1);
- (c) the use of corruption, written or oral threat of force or assault, acts of coercion, to affect the proper process of investigation and the due administration of justice by any suspect against prosecutors, law enforcement or authorised officials in the exercise of any of the powers or duties conferred by this Act;
- (d) the refusal to act or speak, to provide aid, assistance, or evidence to a prosecutor, law enforcement or authorised official in the exercise of any of the powers or duties conferred by this Act; and
- (e) the intention or physical attempt, orally or in writing of any law enforcement or authorised official, prosecutors, judges, elected officers, government official, civil or public servant, member of the armed forces or any joint task force operating under this Act, to tamper with or suppress evidence or act in any manner mentioned in paragraphs (a), (b), (c), and (d) in order to affect an investigation, process of justice, record keeping or the activities of any prosecutor or law enforcement or authorised officials in the exercise of the powers or duties conferred by this Act.

PART III — INCIDENT REPORTING AND EVIDENCE PRESERVATION

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

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

- (a) the master;
- (b) the ship-owner or manager;
- (c) the crew representative;

- (d) the cargo representative;
- (e) the insurers;
- (f) the relevant authority; and
- (g) any other person having knowledge of the incident.

(2) The report shall be —

- (a) made without delay to the relevant authority after having the knowledge of the incident; and
- (b) sent to the Agency in the form prescribed by the Agency.

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

(4) The Agency shall make and send a report of the circumstances concerning, each incident or offence, the action taken and measures taken in relation to the offender or alleged offender and the result of any extradition proceedings, other legal proceedings or prosecution of the offender or alleged offender without delay and in the required formats, to the Secretary-General of the International Maritime Organisation (IMO).

(5) Where a person has information, which he knows or believes, is of material assistance in —

- (a) preventing the commission by any person or an organisation of an act of piracy or maritime offences or other unlawful act under this Act, or
- (b) securing the apprehension, prosecution or conviction of another person for an offence under this Act,

but fails to disclose such information to any law enforcement or relevant authority, immediately, such a person commit an offence under this Act and is liable on conviction to a fine of at least ₦5,000,0000.

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

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

- (a) his client in connection with the provisions of legal advice, not being a disclosure with a view to furthering a

criminal purpose; or

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

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

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

- (a) ensure the effective formulation and implementation of a comprehensive maritime strategy;
- (b) collaborate with the Navy to build capacity for the effective discharge of all relevant security, intelligence and law enforcement under this Act or any other law on maritime offences in Nigeria; and
- (c) do any other act as may be necessary for the implementation this Act.

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

(4) In addition to subsection (3), the law enforcement agencies shall have powers to —

- (a) enforce the provisions of this Act;
- (b) adopt any measure to prevent and combat maritime crime within Nigeria's territory;
- (c) facilitate the detection and investigation of maritime offences and other unlawful acts;
- (d) establish, maintain and secure domestic, regional and international communication to facilitate the rapid exchange of information concerning maritime crime;
- (e) conduct research with the aim of improving preventive measures to efficiently and effectively combat maritime offences and other unlawful acts; and
- (f) partner with any other maritime stakeholder, West African neighbours, and other Nigerian maritime stakeholders to provide the necessary education, support, information, awareness and sensitisation towards the prevention and elimination of maritime

offences and other unlawful acts.

(5) Subject to the provision of this Act, of the law enforcement agencies shall have the power to —

- (a) investigate, whether any person or entity has directly or indirectly committed an offence or is about to commit an offence or has been involved in the commission of an offence under this Act or any other law;
- (b) execute a search warrant as granted by the courts authorising any of its officials or any other law enforcement officials to enter into any vessel, aircraft, tanker, premises or conveyance for the purpose of conducting searches in furtherance of its functions under this Act or under any other law;
- (c) investigate, arrest and provide evidence for the prosecution of any maritime offender or any other maritime law;
- (d) seize, freeze or maintain custody of any maritime offender's property or fund for the purpose of investigation, prosecution or recovery of any property or fund, which the law enforcement and security agencies reasonably believed to have been involved in the preparation of maritime crime activities in Nigeria or outside Nigeria;
- (e) seal up any premises upon reasonable suspicion that the premises is being used or involved in connection with maritime crime;
- (f) adopt measures to identify, trace, freeze, seize maritime crime properties as required by the law and seek for the confiscation of proceeds derived from a maritime offence situate within or outside Nigeria;
- (g) request or demand for, and obtain from any person, agency or organisation, information, including any report or data that maybe relevant to its functions; and
- (h) appoint an expert or a professional, where necessary, to execute the powers required in furtherance of its functions under this Act.

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

18. The Agency may enter into cooperation agreements or arrangements with any national or international body, other intelligence, law enforcement or security agencies or organisations, which in its opinion, will facilitate the discharge of its functions under this Act. Power to enter agreements, arrangements, etc.
19. (1) The Agency shall, under the supervision of the Minister, establish and maintain Fund to be known as the Piracy and Maritime Offences Fund (in this Act referred to as "the Fund"). Piracy and Maritime Offences Fund.
- (2) The Fund shall be used for the implementation of this Act.
- (3) There shall be paid and credited to the Fund-
- (a) such money as may in each year be approved by the Federal Government for the implementation of the Act;
 - (b) gifts, financial contributions by beneficiaries of the services of the maritime law enforcement agencies duties under this Act;
 - (c) 35% of the proceeds of the sales of any property seized and anything forfeited under this Act including instruments used in the commission of crimes and of criminal activity under this Act;
 - (d) contribution from the maritime fund under the Nigerian Maritime Administration and Safety Agency Act; and Act No. 17, 2007.
 - (e) contribution from the Cabotage Vessel Financing Fund under the Coastal and Inland Shipping (Cabotage) Act. Act No. 5, 2003.
- (4) The Agency shall keep proper accounts in the form which conforms with accepted standards of its receipts, payments, assets and liabilities concerning the performance of its functions under this Act and shall submit the accounts annually for auditing by a qualified auditor in accordance with the guidelines of the Auditor-General for the Federation.

PART IV — MISCELLANEOUS

20. (1) The Minister may make or cause to be made by the Agency, Regulations or Guidelines for the implementation of any of the provisions of this Act. Power to make regulations and guidelines.
- (2) The Regulations or Guidelines made pursuant to this Act shall not have effect and come into effect until published in the Federal Government Gazette.
21. Any provision of any existing Act or its subsidiary legislation with respect to piracy or any unlawful act that overlaps with or that is inconsistent or is in conflict with any of the provisions of this Act is repealed with effect from the commencement of this Act if it relates to any matter under this Act or shall be read in conformity with the provisions of this Act. Consequential amendment.

22. In this Act —

Interpretation.

"Agency" means the Nigerian Maritime Administration and Safety Agency established under the Nigerian Maritime Administration and Safety Agency Act No. 17, 2007;

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

"armed robbery at sea" includes any illegal act of violence or detention or any act of depredation or threat thereof other than an act of piracy, directed against a ship or an aircraft or against persons or property onboard such a ship or an aircraft, committed within the Nigerian internal waters and territorial waters, and for the purpose of criminalisation and punishment, all acts of armed robbery at sea are deemed to be included within the meaning of "unlawful act" in this Act;

"Bank" has the same meaning as defined in section 66 of the Banks and Other Financial Institutions Act, 2004; Cap. B3, LFN, 2004

"BRCN Weapon" means Biological Radiological Chemical Nuclear Weapon and it includes —

- (a) a biological weapon which, is microbial or any other biological agent, or a toxin whatever its origin or method of production, of types and in quantities that have no justification for prophylactic protective or any other, peaceful purpose, or a weapon, equipment or any means of delivery designed to use the agent or toxin for a hostile purpose or in armed conflict;
- (b) chemical weapons, which is together or separately toxic chemicals and their precursors, except where they are intended for —
 - (i) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
 - (ii) protective purposes, particularly purposes that are directly related to protection against toxic chemicals and to protection against chemical weapons;
 - (iii) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; and
 - (iv) law enforcement, including domestic riot control purposes, where the types and quantities are consistent with such purposes; and

- (c) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic properties of those toxic chemicals specified in paragraph (b), which may be released as a result of the employment of such munitions and devices;
- (d) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in paragraph (c); and
- (e) nuclear weapons and other nuclear explosive devices;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999;

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

"Court" means the Federal High Court of Nigeria;

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

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

"floating platform" means any type of floating oil production or oil storage facility including Floating Production Storage and Offloading system or platform, Floating Storage and Offloading system or platform or Floating Storage Unit, Tension-leg platforms, Spar platforms, Normally Unmanned Installations (or toadstools) and Satellite Platforms;

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

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

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

"grievous harm" means any harm which amounts to a maim or dangerous harm as defined in this section, or which seriously or permanently injures health) or which is likely to so injure health, or which extends to permanent disfigurement or to any permanent or serious injury to any external or internal organ, member, or sense, mans or animals and this

includes all such chemicals, regardless of their origin or of their method of production and whether or not they are produced in facilities, in munitions or elsewhere; and

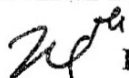
"Warship" means a ship belonging to the Armed Forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the Government of the State and whose name appears in the appropriate service list or its equivalent, and manned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

23. This Act may be cited as the Suppression of Piracy and other Maritime Offences Act, Citation.
2019.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



MOHAMMED ATABA SANI-OMOLORI
CLERK TO THE NATIONAL ASSEMBLY

 DAY OF MAY, 2019

Schedule to the Suppression of piracy and other Maritime Offences Bill, 2019

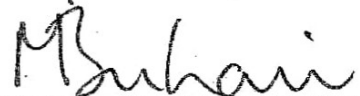
SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Suppression of piracy and other Maritime Offences Bill, 2019.	An Act to provide for the Suppression of Privacy and other Maritime Offences, give effect to the provision 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 its Protocols; and for related matters	This Bill provide for the Suppression of Privacy and other Maritime Offences, give effect to the provision 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 its Protocols.	9 th April, 2019	30 th April, 2019

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.


MOHAMMED ATABA SANI-OMOLORI

Clerk to the National Assembly

24th Day of May, 2019


MUHAMMADU BUHARI, GCFR

President of the Federal Republic of Nigeria

24 Day of May, 2019

Tue

I ASSENT