

MARITIME SECURITY AGENCY (ESTABLISHMENT, ETC.) BILL, 2019

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SCHEDULES

# A BILL

## FOR

AN ACT TO ESTABLISH THE MARITIME SECURITY AGENCY TO PROMOTE MARITIME SECURITY AND FOR RELATED MATTERS

*Sponsored by Hon. Ntufam Eta Mborah*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

### PART I - ESTABLISHMENT OF THE MARITIME SECURITY AGENCY, ETC.

1 1.-(1) There is established a body to be known as the Maritime Security Agency (in this Act referred to as "the Agency") which shall- Establishment of the Agency

2

3 (a) be a body corporate with perpetual succession;

4 (b) have a common seal; and

5 (c) sue and be sued in its corporate name.

6 (2) The Agency may-

7 (a) enter into contract and incur obligation;

8 (b) acquire, hold, mortgage, purchase, sell, lease or deal in any way

9 it deems fit with property, whether movable or immovable, real or personal,

10 for the purposes of this Act; and

11 (c) do or suffer any or all acts or things which a body corporate may,

12 by law, do or suffer which are necessary or convenient for the purposes of

13 this Act;

14 (d) let or hire plant, machinery, craft, equipment or goods.

15 (e) shall be self sustained.

16 (3) The common seal of the Agency shall be kept in such custody as

17 the Agency may direct and shall be used only on the direction of the Agency.

18 (4) The head office of the Agency shall be located in the Federal

19 Capital Territory, Abuja.

20 2.-(1) This Act shall apply to any person, ship, aircraft or any other Application and scope

21 craft or object in the littoral and backwaters zones (inland water ways,

1 rivers, lakes, dams, and their surrounding proximate lands) up to the 12  
2 nautical miles limit of the territorial sea of Nigeria.

3 (2) This Act does not apply to any military vessel or aircraft operating  
4 within the Agency's AOR.

5 PART II - OBJECTIVES OF THE AGENCY

Objectives of  
the Agency

6 3. The objective of the Agency is to-(a)do everything within its  
7 power and statutory responsibility to eradicate maritime crimes from Nigeria's  
8 maritime environment up to the limits of Nigeria's territorial zone.

9 (b) enhance maritime domain awareness in conjunction with other  
10 maritime security agencies of government and maritime industry stakeholders.

11 (c) enhance the development and the creation of employment  
12 opportunities for particularly, the Nigerian seafarers.

13 (d) regulate the provision of maritime security services by any person  
14 or corporate body within the Agency's AOR.

15 PART III - FUNCTIONS AND POWERS OF THE AGENCY

Functions of  
the Agency

16 4. The Agency shall-

17 (1) in synergy with other bodies, ensure the continuation and  
18 coordination of the implementation of the Chapter II (2) of SOLAS  
19 International Ship and Port Facility Security (ISPS) Code of the International  
20 Maritime Organization (IMO).

21 (2) have oversight responsibility and coordination for the provision of  
22 security to national maritime infrastructures;

23 (3) interface with the operations and the activities of maritime  
24 security organizations of government at all levels (Local, State and Federal) in  
25 the discharge of its functions;

26 (4) monitor, regulate and co-ordinate maritime related  
27 communication between persons, objects or craft, within particularly its AOR,  
28 in Nigeria's maritime environment;

29 (5) assist in search and rescue operations in conjunction with all  
30 maritime agencies and other organizations;

1 (6) enhance the gathering and sharing of real-time actionable  
2 intelligence information in conjunction with all maritime security agencies  
3 of government to foster proactive decision making and interdiction;

4 (7) develop and maintain a database of national maritime  
5 infrastructure;

6 (8) establish a security and infrastructure protection mechanism  
7 for all sea ports and jetties in Nigeria;

8 (9) pool and co-ordinate resources towards supporting maritime  
9 security and necessary industry upgrade, enhance intra and inter industry  
10 maritime security and Modular refineries security coordination, capacity  
11 and cooperation between the national intelligence and security forces  
12 community and maritime stakeholders; and

13 (10) carry out such other necessary activity to promote and realize  
14 its objectives as specified in this Act.

15 5.-(1) Where the Agency is required to provide a facility or service  
16 or discharge a function, it shall do so-

Mode of exercise  
of Powers

17 (a) by itself;

18 (b) in cooperation with another person or body; or

19 (c) by arranging for another person or body to do so on its behalf  
20 and the Agency is ultimately responsible for the exercise of the delegated  
21 power.

22 (d) In time of national crises, the President through the  
23 recommendation of the Minister of Interior could order the Agency to be an  
24 integral part of the Nigeria Navy, as the crises necessitates.

25 (2) The Agency shall, notwithstanding the provisions of any other  
26 Act, have power to -

27 (a) receive and consider any report of the commission of an offence  
28 in relation to this Act;

29 (b) stop, enter, board, inspect, search any ship or craft within the  
30 territorial sea and coastal land;

1 (c) demand the production of any license, permit, record, certificate  
2 or other document or make copies of or take extracts of such license, permit,  
3 record, certificate or other document in relation to matters provided for under  
4 this Act;

5 (d) cause an investigation into any offence which it has reason to  
6 believe is being committed or is about to be committed or has been committed  
7 in relation to this Act;

8 (e) exercise the right of pursuit in conjunction with other security  
9 agencies;

10 (f) The Agency will be a paramilitary organisation under the  
11 supervision of the Ministry of Interior, that will exercise through its staff and  
12 employees, the right to be aptly armed to meet envisaged challenges in the  
13 execution of its functions and powers under this Act;

14 (g) examine and seize any article, device, goods, ship, craft or any  
15 other item related to any offence which has been committed or it has reason to  
16 believe has been committed in relation to this Act;

17 (h) dispose of recovered crude oil and petroleum allied products or  
18 any article, device, goods, ship, craft or any other item related to any offence  
19 which has been committed or it has reason to believe has been committed in  
20 relation to this Act;

21 (i) arrest any person whom it has reason to believe has committed any  
22 maritime offence within its AOR;

23 (j) refuse entry to or expel any ship which it has reason to believe that  
24 its entry or continuous stay is detrimental to the interest of or will endanger the  
25 order of public interest and safety of Nigeria's maritime zone, particularly  
26 within the Agency's AOR; and

27 (k) enter ports, terminals, jetties and ships to monitor and investigate  
28 matters related to maritime security.

29 (3) Without prejudice to the generality of subsection (1) of this  
30 section, designated officers of the Agency shall have, for the purposes of this

1 Act, all the powers which any law enforcement agency may exercise under  
2 any Act applicable to the territorial sea and back waters of Nigeria's  
3 maritime expanse.

4 (4) Notwithstanding the provisions of subsection (2) (b) of this  
5 section, no ship shall be stopped, entered, boarded, searched or inspected if  
6 the passage of the ship within the territorial sea of Nigeria is an innocent  
7 passage.

8 (5) For the purpose of this section, the passage of a ship is regarded  
9 as being on an innocent passage if it maintains its course and speed away  
10 from Nigeria's territorial waters and commits no action prejudicial to the  
11 safety and security of the maritime environment of Nigeria.

12 6. The Agency will assist the Nigerian Navy, NIMASA and other  
13 maritime agencies of government, to carry out the following activities,  
14 particularly within the Agency's AOR.

Activities  
prejudicial to  
Safety and  
Security

15 (a) any threat or act which in any matter is a violation of the  
16 provisions of this Act or any other legislation applicable to the Agency;

17 (b) act of pollution;

18 (c) unauthorized fishing activity;

19 (d) the carrying out of unauthorized research or survey activities;

20 (e) any act aimed at interfering with any systems of  
21 communication or any other facilities or installations of the Agency.

22 (f) any act which is in contravention of the Coastal and Inland  
23 Shipping (Cabotage) Act, 2003 or any similar law.

24 (g) any other activity having a negative bearing on innocent  
25 passage within the nation's territorial waters.

26 7. In the exercising its powers, the Agency may collaborate with,  
27 request for and shall be entitled to receive assistance from other government  
28 agencies responsible for the maintenance of security in the maritime  
29 environment of Nigeria.

Collaboration  
with other  
Agencies

Consultation with  
other Agencies

1                   8. In the performance of its functions, the Agency may, consult with  
2 other agencies of government, maritime industry stakeholders, and other  
3 relevant bodies and organizations when and where it deems necessary.

4                   PART IV - GOVERNING BOARD OF THE AGENCY AND ITS MEMBERSHIP

Governing Board  
of the Agency

5                   9.-(1) There is to be established for the Agency a Governing Board (in  
6 this Act referred to as "the Board") to be appointed by the President on the  
7 recommendation of the Minister of Interior of 13 persons in which at least 70%  
8 of the Board members should be seasoned seafarers, maritime security experts,  
9 administrator and counter terrorism experts, with at least one each from a  
10 geographical zone of Nigeria. The National Coordinator and Director General  
11 of the Agency are to be members of the Board

12                   (2) The Board shall consist of-

13                   (a) a Chairman;

14                   (b) the National Coordinator,

15                   (c) the Director General;

16                   (d) a representative not below the rank of a Director from:-

17                   (i) Federal Ministry of Finance,

18                   (ii) Ministry of Transportation,

19                   (iii) Chief of Naval Staff or his representative.

20                   (e) a representative of the Office of Ministry of Interior not below the  
21 rank of Brigadier General or its service equivalent,

22                   (f) a representative of the Office of the National Security Adviser not  
23 below the rank of a Director,

24                   (g) the Assistant Inspector General of Police , Maritime Command  
25 Nigeria Police

26                   (h) a representative of the Office of the Nigeria National Petroleum  
27 Corporation not below the rank of Group Executive Director:

28                   (i) Representative of Merchant Navy Officers' and Water Transport  
29 Senior Staff Association;



1 (j) 3 other nominated members in accordance with Section 9 – 1 of  
2 this Act;

3 (k) representative of Maritime Workers Union of Nigeria.

4 (2) The Board is responsible for the determination of the general  
5 policies of the Agency with regard to its financial, commercial,  
6 administrative, human resources and operational status in line with the set  
7 objectives and the AOR of the Agency.

8 (3) In managing the affairs of the Agency, the Board shall have  
9 regard, in addition to any general guidelines on the running of public  
10 institutions, to such generally acceptable principles of good corporate  
11 governance as is reasonably applicable to the Agency.

12 (4) The supplementary provisions set out in the First Schedule to  
13 this Act shall apply to the proceedings of the Board and other matters  
14 contained therein. First Schedule

15 (5) The Board shall make standing orders regulating its  
16 proceedings and meetings;

17 10.-(1) A member ceases to hold office if-

Cessation of  
Membership

18 (a) he has been certified to be of unsound mind; or

19 (b) he is an undischarged bankrupt; or

20 (c) he has been convicted in Nigeria or elsewhere of a criminal  
21 offence involving fraud or dishonesty; or

22 (d) his retention on the Board is inimical to public interest or of the  
23 Agency.

24 (2) The conflict of interest provisions contained in the Second  
25 Schedule to this Act shall apply to members. Second Schedule

26 11.-(1) Members, other than ex-officio, shall hold office for a term  
27 of four years and may be eligible for a re-appointed further term of four years  
28 and no more.

Tenure of  
members

29 (2) A member other than ex-officio may resign his appointment by

1 giving one month written notice to the President through the Minister of  
2 Interior.

3 (3) The Director General shall give 3 months written notice of  
4 resignation to the President through the Minister of Interior.

Removal of a  
Member by  
Minister of  
Interior

5 12.-(1) A member may be suspended or removed by the Minister of  
6 Interior on the recommendation of the Board.

7 (2) In making a recommendation under subsection (1) of this section,  
8 the Minister of defence shall have regard to section 10 of this Act.

Vacancy in the  
Board

9 13.-(1) A vacancy occurs in the Board if a member-

10 (a) dies;

11 (b) is medically certified unfit;

12 (c) is removed;

13 (d) resigns;

14 (e) completes his term of office.

15 (2) The President, on the recommendation of the Minister of Interior  
16 shall appoint another person into the Board to replace a member whose office  
17 became vacant pursuant to subsection (1) of this section and the person shall  
18 represent the same interest as that of the former member.

19 (3) A person appointed under subsection (2) of this section shall serve  
20 the unexpired term of the former member and may be reappointed for another  
21 term of four years and no more.

Remuneration  
of members

22 14. All payments, allowances, benefits and expenses payable to a  
23 member shall be determined by the Board in accordance with Government  
24 guidelines.

25 15.-(1) The Management Team of the Agency shall comprise:

26 (a) The Director General;

27 (b) 4 Executive Directors;

28 (c) 4 Deputy Directors to each Executive Director;

29 (d) Zonal Commanders; and

30 (e) State Commanders;

1           15.-(2) Every member of the management team shall have sound  
2 administrator, seafaring or maritime security experts or counter  
3 terrorism/piracy or aircraft piloting with professional experiences in line  
4 with the objectives of the Agency.

Agency's  
Management  
Team

5           15.-(3) The Director-General shall-

Director General

6           (a) subject to Section 15 sub-section 2 of this Act, be a person that  
7 possess extensive knowledge and professional experience in maritime  
8 operations, administration and relevant security matters;

9           (b) be appointed by the President on the recommendation of the  
10 Minister of Interior in conjunction with National Security Adviser; and  
11 shall-

12           (c) hold office for a term of five years in the first instance and may  
13 be eligible for reappointment for another term of four years and no more, (TO  
14 ALLOW FOR AN OVERLAP OF ONE YEAR BETWEEN TENURE OF THE BOARD  
15 AND THE DG FOR EFFICIENT AND CONTINUOUS MANAGEMENT OF THE  
16 AGENCY)

17           (4) The Director-General is the Chief Executive and Chief  
18 Accounting Officer and is responsible for-

19           (a) the implementation of the policies of the Agency and decisions  
20 of the Board;

21           (b) nomination of members of the management team as stipulated  
22 in Section 15-2 of this Act for the Board's approval.

23           (c) organization, control and management of the affairs of the  
24 Agency;

25           (d) the direction, supervision and control of the employees of the  
26 Agency subject to any direction issued by the Board;

27           (e) ensuring the maintenance of accounting records in accordance  
28 with applicable laws and accounting principles; and

29           (f) any other thing incidental or related to the object of this Act.

30           16.-(1) Executive Directors and other Management Team's

Executive  
Directors and  
other Management  
Team positions

1 positions of the Agency subject to Section 15-2 shall-

2 (a) be appointed by the Board on the recommendation of the Director

3 General

4 (b) be a person that possess sound professional knowledge of and  
5 ability in the executive function he is appointed to handle;

6 (c) perform such functions as may be determined by the Board from  
7 time to time;

8 (d) serve for a term of five years in the first instance and may be  
9 eligible for reappointment for a further term of five years and no more.

Departments

10 17.-(1) The Board may establish such number of departments  
11 necessary for the attainment of the objectives of the Agency and each  
12 department shall be headed by an Executive Director.

13 (2) Departments established under subsection (1) of this Section shall  
14 include-

15 (a) administration and finance department

16 (b) training and operations department;

17 (c) technical/MDA development department and;

18 (d) policy and plans department

Secretary to the  
Board

19 18.-(1) There shall be appointed by the Board a Secretary to the  
20 Board.

21 (2) The secretary must possess relevant professional qualifications  
22 and experience, and must have been so qualified for period of not less than ten  
23 years as-

24 (a) a legal practitioner; or

25 (b) a chartered secretary.

26 (3) The Secretary shall be responsible to the Director-General and the  
27 Board and shall perform the following duties-

28 (a) arrange for meetings of the Board, prepare the agenda and write  
29 minutes of such meetings;

30 (b) communicate the decisions of the Board to members;

1 (c) keep records of the Board;

2 (d) ensure the payment of the allowances of members for attending  
3 meetings; and (e) carry out any other duties as may be assigned to him by the  
4 Director General or the Board.

5 19.-(1) The Agency may employ such number of staff or  
6 employees as it may deem necessary for the efficient performance of its  
7 functions.

Other staff and  
conditions of  
service

8 (2) The Board shall determine the job description, title, terms,  
9 qualifications, salaries, allowances and other benefits of staff or employees  
10 who are subject to the conflict of interest rules in the Second Schedule to this  
11 Act.

12 (3) Staff of the Agency, including the Board Secretary, shall be  
13 subject to such terms and conditions as may, from time to time, be stipulated  
14 by the Board and as contained in their letters of employment.

15 20. Service in the Agency shall be approved service for the purpose  
16 of Pension and staff or employees of the Agency shall be entitled to  
17 retirement benefit as prescribed in the Pension Reform Act.

Pension Reform  
Act, 2004

18 PART V - FINANCIAL PROVISIONS

19 21.-(1) The Agency shall establish and maintain a fund into which  
20 shall be paid-

Funding of the  
Agency

21 (a) oil percent of the value of the gross tonnage of in-bound and  
22 out-bound cargo in vessels calling at or departing from any port in Nigeria;

23 (b) the maritime security levy;

24 (c) all other financial assets that may, from time to time, be vested  
25 in or accrue to the Agency in the course of performing its functions under  
26 this Act;

27 (d) all other sums collected or received by the Agency for services  
28 rendered or facilities provided by it;

29 (e) gift, grant, aid including financial and material support from  
30 multilateral agencies and non-governmental organizations;

1 (f) such other sums that may be received from the Federal  
2 Government; and

3 (g) such other sources of revenue or income in aquiculture and  
4 modular refinery other than those specified in paragraphs (a) to (f) of this  
5 subsection:

6 Provided that the conditions attached to the revenue or income shall  
7 not be inimical to the objectives of this Act and the functions and powers of the  
8 Agency.

9 (2) The Agency shall apply the funds in Sub-section (1) of this Section  
10 to-

11 (a) carry out its functions under this Act;

12 (b) train staff and related personnel; (c) its general administration;

13 (d) the payment of salaries, allowances, emoluments and other  
14 benefits of the executive members of the Board, the Director General and staff;

15 (e) acquire and maintain any property for the use of the Agency; and

16 (f) any other expenses that are necessary for the effective discharge of  
17 its functions.

Budget and  
expenditure

18 22. The Agency shall, not later than 30th September in each financial  
19 year, prepare and submit to the Minister of Interior, for presentation to the  
20 President and consideration by the National Assembly for approval, a  
21 statement of estimated income and expenditure for the following financial  
22 year.

Power to accept  
gifts

23 23.-(1) The Agency may accept gift of land, money or other property  
24 on such terms and conditions as is consistent with the functions of the Agency.

25 (2) The Agency shall not accept any gift if the condition attached by  
26 the person or organization making it is inconsistent with the functions of the  
27 Agency or are in conflict with national interest.

Account and  
records to be  
open for  
inspection

28 24.-(1) The accounts and records of the Agency shall, at all times, be  
29 open for inspection by-

30 (a) a member of the Board; or

1 (b) person specifically authorized by the Minister of Interior to  
2 inspect them.

3 (2) The books of accounts and records shall be kept at the head  
4 office of the Agency.

5 25.-(1) The Agency shall keep proper and regular accounts and  
6 other records of monies received and paid by it and of several purposes for  
7 which such monies were received and expended; and of the assets, credits  
8 and liabilities of the Agency.

Statements of  
accounts and  
audit

9 (2) The Agency shall ensure that payments out of its money are  
10 correctly made and properly authorized and that adequate control is  
11 maintained over the assets and the expenditure incurred by the Agency.

12 (3) The accounts of the Agency shall be audited annually by a firm  
13 of Auditors appointed by the Board from the list of Auditors supplied by the  
14 Auditor-General for the Federation.

15 (4) As soon as the accounts of the Agency and the financial  
16 statements have been audited, the Agency shall forward a copy together with  
17 the report or observations made on them by the Auditor to the Minister of  
18 Interior.

19 26. The Agency shall, at the end of each financial year, prepare and  
20 submit to the Minister of Interior and Auditor General for the Federation a  
21 report in such form as shall accurately reflect all the activities of the Agency  
22 during the preceding year; and the report shall include a copy of the audited  
23 accounts of the Agency.

Annual and other  
reports

24 PART VI - DIRECTIVE BY MINISTER OF INTERIOR

25 27. The Minister of Interior may give the Agency written directives  
26 regarding the performance of its functions. Funds particulars of the  
27 directives given in any financial year shall be included in the annual report  
28 of the Agency for that year.

Directives by the  
Minister of  
Interior

29 PART VII - CHARGES AND LEVIES

30 28.-(1) As from the commencement of this Act, there shall be

Maritime  
Security Levy

1 charged and payable a Maritime Security Levy which shall be assessed,  
2 collected and administered in accordance with the provisions of this Act.

3 (2) As in the levy in Subsection (1) of this Section, 0.1% of the  
4 declared annual profit of any company engaged in maritime related activity in  
5 the federation shall be paid to the Agency.

Imposition of  
charges

6 29.-(1) The Agency may by regulation impose charges and specify the  
7 persons to whom it shall apply, and the times when they shall become due and  
8 payable.

9 (2) The charges may include-

10 (a) a charge for a service or facility provided by the Agency;

11 (b) a fee or other charges in respect of a matter in relation to which  
12 expenses have been incurred by the Agency including, but not limited to a fee  
13 or other charges in respect of, or for an application for-

14 (i) the grant, issue, renewal or variation of a certificate, license,  
15 approval, permission, permit, registration or exemption under an Act or a  
16 regulation, or

17 (ii) the grant or variation of an authorization or the cancellation,  
18 suspension, variation or imposition of a condition relating to anything referred  
19 to in subparagraph (i) of this subsection.

20 (3) Before making regulations under subsection (1) of this section, the  
21 Agency shall give notice in writing of the proposed regulation to the Minister  
22 of Interior in which it shall specify the-

23 (a) day on which the regulation is intended to take effect;

24 (b) basis of a charge or penalty; and

25 (c) reasons for varying a charge or penalty.

26 (4) The Minister of Interior shall, in the exercise of his discretion,  
27 after receiving a notice of the proposed regulation, give the Agency a notice in  
28 writing approving, rejecting or recommending an alternative regulation.

29 (5) Where a charge imposed under subsection (1) is not paid within  
30 the period determined by the Agency, being a period beginning on the day on le,



1 which the charge became due and payable, the person liable shall pay to the  
2 Agency, in addition to the charge, a penalty not exceeding 50% of the sum  
3 calculated upon the unpaid amount of the charge from the day on which the  
4 charge became due.

5 (6) The penalty shall not exceed an amount equivalent to the 50%  
6 of the unpaid amount of the charge for each day during which it remains  
7 unpaid, calculated from the day on which the charge became due and  
8 payable.

9 (7) Unpaid charge and penalty may be recovered as debt due to the  
10 Agency.

#### 11 PART VIII - SAFETY AND SECURITY OF SHIP

12 30. The Agency shall have power to do the following

13 (a) stop, board and inspect any ship or vessel within the territorial  
14 sea and inland waters of Nigeria in the discharge of its functions under this  
15 Act;

16 (b) interfere, intercept or do anything it deems necessary to  
17 enhance communication capabilities of ships, vessels or crafts within the  
18 AOR of the Agency under this Act;

19 (c) monitor any ship, vessel or craft with regard to ensuring the  
20 safety and security of maritime infrastructure within the AOR of the Agency  
21 under this Act;

Inspection of  
ships

#### 22 PART IX - GENERAL PROVISIONS

23 31. The Agency, to ensure maritime security, may establish  
24 maritime security offices in any part of Nigeria or such other places  
25 considered necessary for the effective performance of its functions under  
26 this Act.

Establishment  
of maritime  
security offices

27 32. The Agency shall keep records of the following:

28 (a) the number, type, location, mission and capabilities of ship,  
29 vessel and craft entering or leaving Nigeria's territorial sea and inland  
30 waters; and

Records to be  
kept of ships

1 (b) any other information that it deems necessary to enable it  
2 discharge its functions under this Act.

Power to detain  
ships

3 33.-(1) The Agency shall upon an application made to the court  
4 (where it believes that the master or owner of a ship has committed an offence  
5 under this Act), to cause a detention order to be issued to the ship in a prescribed  
6 form.

7 (2) The power in subsection (1) of this section shall be exercised in  
8 accordance with the Ship Detention Order Regulations and other relevant laws  
9 in that regard.

Regulations

10 34.-(1) The Agency may, subject to the approval of the Board make  
11 regulations generally-(a) prescribing the matters required by this Act to be  
12 proscribe-

13 (b) prescribing the manner in which and the persons or bodies by  
14 whom charges, levies and related penalties are to be collected; and the manner  
15 in which security may be provided for the payment of such charges, levies and  
16 related penalties;

17 (c) regulating the detention of ships; and

18 (d) prescribing all matters necessary or expedient for the achievement  
19 of the objectives of this Act.

20 (2) The regulations made under subsection (1) of this section may  
21 include such incidental, supplementary or transitional provisions as may be  
22 reasonably necessary or expedient.

23 (3) In making the regulations, the Agency shall take into account the  
24 need to give effect to the provisions of any international convention or  
25 agreement ratified by Nigeria.

26 PART X - LEGAL PROCEEDINGS

Limitation of  
suits against  
the Agency

27 35.-(1) Notwithstanding anything contained in any other law or  
28 enactment, no person shall institute an action against the Agency, a member of  
29 the Board, the Director General or any staff of the Agency for any act done or  
30 omitted to be done in the discharge of any public duty under this Act or any

1 other law or in respect of any alleged neglect or default in execution of any  
2 duty under this Act or any such law, unless it is commenced within one (1)  
3 year after the act, neglect or default complained of; or in the case of a  
4 continuance of damage or injury, within one (1) year after the ceasing of the  
5 act.

6 (2) An action shall not commence against the Agency, a member of  
7 the Board, the Director General or a staff of the Agency before the expiration  
8 of a period of one (1) month after a written notice of intention to commence  
9 the action had been served on the Agency by the intending plaintiff or his  
10 agent and the notice shall clearly state the-

- 11 (a) cause of action;  
12 (b) particulars of the claim;  
13 (c) name and place of residence of the intending plaintiff; and  
14 (d) the relief to be sought.

15 (3) The service of court process on the Agency shall be valid only if  
16 such a process is served on the Director-General or Secretary or at the  
17 designated office of the Agency.

18 (4) No arrest shall lie against any staff of the Agency whilst on duty  
19 except with the consent of his immediate superior officer.

20 (5) Where a staff is found guilty of an offence by a competent court  
21 and as a result of which the Agency has made any financial contribution,  
22 such a staff shall indemnify the Agency for the contribution.

23 36. The Agency shall not be placed under judicial management or  
24 liquidation except as authorized by an Act of the National Assembly.

Judicial  
management and  
liquidation

25 PART XI - OFFENCES

26 37.-(1) A person who, willfully removes, destroys or damages any  
27 property belonging to or which is in the custody or possession of the  
28 Agency; or hinders or prevents such property from being used or operated in  
29 the manner in which it is intended to be used or operated, commits an  
30 offence and is liable on conviction to a minimum fine of N1,500,000.

Damage to  
property of the  
Agency

1 (2) Any person convicted under Sub-section (1) of this Section shall,  
2 in addition, make good any loss, destruction or damage suffered by the Agency,  
3 including the expenses of any inspection or survey carried out by the Agency to  
4 ascertain such loss, destruction or damage.

Evasion of fees,  
levies, etc.

5 **38.**-(1) A person who by any means evades or attempts to evade,  
6 neglects or omits to pay any levy, charge or fee payable under this Act commits  
7 an offence and is liable on conviction to a minimum fine of N1,000,000 or to  
8 imprisonment for a term of six months or to both such imprisonment and fine.

9 (2) Any person found guilty under Subsection (1) of this Section shall,  
10 in addition, pay to the Agency a penalty, double the amount of the levy, charge  
11 or fee evaded or attempted to be evaded or neglected or omitted to be paid.

Penalty for giving  
false statement

12 **39.** A person who makes, whether knowingly or recklessly any  
13 statement which is false in any material particular in any claim or other  
14 document which is requested or authorized to be made by or under this Act or a  
15 regulation made under it, commits an offence and is liable on conviction to a  
16 minimum fine of N1,000,000 or to imprisonment for a term of twelve months  
17 or to both fine and imprisonment.

Non-compliance  
with the directives  
of the Agency

18 **40.**-(1) A person who, without lawful excuse, refuses, neglects or fails  
19 to comply with any directive lawfully given by the Agency in the exercise of its  
20 powers under this Act; or who fails to comply with any provision of this Act or  
21 of any regulation made under it, commits an offence and is liable on conviction  
22 to a minimum fine of N1,500,000 or to imprisonment for a term of twelve  
23 months or both; and in the case of a continuing offence, to a further fine of  
24 N250,000 for every day during which the offence continues.

25 (2) A person commits an offence if he, without lawful excuse, refuses  
26 or neglects to obey any directive given under this Act or a regulation made  
27 under it.

28 (3) The Agency may, irrespective of whether any proceeding has been  
29 instituted against or any penalty imposed on such person for the refusal or  
30 neglect, do or cause to be done any such acts as are, in its opinion) reasonable or

1 necessary to carry out the directive.

2 (4) The Agency may hire or employ such persons as are necessary  
3 to make good whatever loss or damage may have been caused by the refusal  
4 or neglect of the person to whom the direction was given.

5 (5) Any expenses incurred by the Agency in the exercise of its  
6 powers under this section is recoverable from the person to whom the  
7 direction was given.

8 41. A person who hinders, obstructs or molests an employee, agent  
9 or contractor of the Agency in the performance of their duty commits an  
10 offence and is liable on conviction to a minimum fine of N650,000 or  
11 imprisonment for a term of six months or to both such fine and  
12 imprisonment.

Obstructing the  
Agency in the  
performance of  
its duties

13 42.-(1) Except for the purpose of the performance of his duties or  
14 when lawfully required to do so by a court or under the provisions of any  
15 law, a person who is or has been a member of the Board, the Director  
16 General, an employee, an adviser, an agent a contractor or of any other  
17 person of the Agency shall not disclose any information related to the affairs  
18 of the Agency which has been obtained by him in the performance of his  
19 duties or functions.

Preservation of  
Secrecy

20 (2) A person who contravenes subsection (1) of this section  
21 commits an offence and is liable on conviction to a minimum fine of  
22 N400,000 or imprisonment for a term of six months or to both such fine and  
23 imprisonment.

24 43.-(1) Where an offence under this Act or the Agency's  
25 regulations was committed by a company or other body or persons, any  
26 Agency Staff who, at the time the offence was or is privy to the committed  
27 offence, may be charged with the same offence.

Offences by  
companies and  
fines to be paid  
to the Agency

28 (2) If a company or other body of persons is convicted of an offence  
29 under this Act, any person charged with the same offence alongside the  
30 company or body of persons as an official of such a company shall be guilty

1 throughout the term of his office or employment with the Agency.

2 (2) Subject to paragraphs (3) and (4) of this Schedule, each member of  
3 the Board or staff of the Agency shall, on an annual basis, present a written  
4 declaration, not later than the third month of each year, affirming that no such  
5 interest as is specified in paragraph (1) of this Schedule shall arise during his  
6 term or employment with the Agency.

7 (3) The members of the Board and staff of the Agency, as from the  
8 commencement of this Act, shall be entitled to a maximum period of six  
9 months to divest themselves of any direct or indirect financial interests or  
10 investments in any shipping, stevedoring, pilotage or oil and gas services  
11 terminal operations or any other similar engagements.

12 (4) All newly appointed members or staff of the Agency, after the  
13 commencement of this Act, shall be entitled to a maximum period of three  
14 months from their respective dates of appointment to divest themselves of any  
15 direct or indirect financial interests or investments in any shipping, stevedoring  
16 or any similar engagement.

17 (5) Each member or staff of the Agency shall declare, on appointment  
18 or at the commencement of employment and annually thereafter, for as long as  
19 he is in the employment of the Agency, any interest or investment that he-

20 (a) knowingly has; or

21 (b) knows any member of his immediate family to have in any aspect  
22 of the maritime industry.

23 (6) If a member or staff of the Agency contravenes the provisions of  
24 paragraphs (1) and (2) of this Schedule or gives false information under  
25 paragraph (5), he commits an offence and is liable on conviction to a fine of  
26 ₹1,000,000 or imprisonment for a term of one year or to both such fine and  
27 imprisonment.

28 (7) Subject to paragraph (8) of this Schedule, the Board may, from  
29 time to time, waive the application of the prohibitions specified in paragraphs  
30 (1) and (2) of this Schedule to a member or staff of the Agency if the Board

1 determines that the financial interest of the member or staff is not prejudicial  
2 to nor negates the objectives of the Agency.

3 (8) The Board, in determining whether or not the interest of a  
4 member or staff of the Agency is minimal or not prejudicial to nor negates  
5 the objectives of the Agency., shall consider factors including, but not  
6 limited to the-

7 (a) revenues, investments, profits and managerial efforts of the  
8 relevant company or other entity in regard to its maritime activities  
9 compared with the functions and responsibilities of the Agency or those of  
10 that company or entity;

11 (b) extent to which the Agency regulates and oversees the activities  
12 of such company or entity;

13 (c) degree to which the economic interests of such company or  
14 other entity may be affected by an action of the Agency; and

15 (d) perceptions held or likely to be held by members of the public  
16 regarding the relevant person's financial interest or investment in that  
17 company or entity.

18 (9) The Board may at any time, review and reverse its  
19 determination under paragraph (7) of this Schedule and direct the  
20 application of the prohibitions contained in this Schedule to the affected  
21 member or staff of the Agency; and the Board shall not be under any  
22 obligation to disclose the reason or basis for its review to the affected  
23 member or staff.

24 (10) In any case in which the Board exercises the waiver or the  
25 review as specified in paragraphs (7) and (9) of this Schedule, it shall publish  
26 the details thereof and such publication shall include information regarding  
27 the identity of the person who has been granted the waiver or whose waiver  
28 grant has been reviewed; the position held by such person and the nature of  
29 the financial interests which are the subject of the waiver or the review.

30 (11) For the purpose of this Schedule-

- 1 (a) "company" includes partnerships and undertakings howsoever  
2 defined; and  
3 (b) "immediate family" means a person's spouse, a partner living with  
4 that person as if they were married to each other, and children under the age of  
5 18 years.

EXPLANATORY MEMORANDUM

This Bill seeks to provides, among other things, for the establishment of a Maritime Security Agency which shall be charged with the responsibility of providing security and intelligent actionable maritime domain awareness information in line with its objectives and functions as contained in Parts II and III of this Act, to all maritime stakeholders in Nigeria.