A BILL
FOR
AN ACT TO REPEAL THE EXCLUSIVE ECONOMIC ZONE ACT E7 LFN 2010 AND THE TERRITORIAL WATERS ACT CAP. T5 LFN 2010 AND ENACT THE MARITIME ZONES ACT TO PROVIDE FOR THE MARITIME ZONES OF NIGERIA AND FOR MATTERS CONNECTED THEREWITH, 2020
Sponsored George Thompson Sekibo

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

1.-(1) The normal baseline for measuring the breadth of the territorial waters of the Federal Republic of Nigeria (hereinafter referred to in this Act as "Nigeria") shall be the low water line along the coast and low-tide elevations as marked on large scale charts officially recognised by Nigeria.

(2) Notwithstanding the provisions of sub-section 1 of Section of this Act, the Minister or Appropriate Authority may, if it deems it appropriate and in accordance with the applicable principles of international law delineate straight baselines joining appropriate base points for measuring the breadth of the territorial waters in the following localities-

(a) where the coastline is deeply indented and cut into:

(b) where due to the presence of a delta and other natural conditions, the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low water line and, notwithstanding subsequent regression of the low water line, the straight baselines shall remain effective until changed by Nigeria in accordance with this Act;

(c) where a river flows directly into the sea, the baseline shall be a...
straight line across the mouth of the river between points on the low water of its banks.

(3) For the purposes of this section, "appropriate base points" shall include-

(a) the outermost permanent harbour works which form an integral part of a port;

(b) low tide elevations.

(4) The Minister or Appropriate Authority may, delineate a closing line across the mouth of a Bay and the waters enclosed shall be considered as internal waters of Nigeria, if the Bay satisfies the following criteria-

(a) The Bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast, and whose area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of the indentation;

(b) the area of an indentation for the purposes of measurement, is that line between the low water mark around the shore of the indentation and a line joining the low water mark of its natural entrance points;

(c) where, due to the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths;

(d) islands within an indentation shall be included as if they were part of the water area of the indentation;

(5) The Minister or Appropriate Authority shall designate officially recognised charts for the purposes of this section and shall cause to be prepared such charts or geographical coordinates showing the baselines of the territorial waters as it may deem fit.

2. The internal waters of Nigeria for all purposes, consist of the waters on the landward side of the straight baselines or closing lines from which the breadth of the territorial waters of Nigeria is measured.
3.-(1) The waters within a distance of twelve nautical miles from
the baselines shall be the territorial waters of Nigeria.

(2) The sovereignty of Nigeria shall extend beyond its land
territory and internal waters to the territorial waters, the airspace over the
territorial waters as well as its seabed and subsoil.

(3) The right of innocent passage shall be enjoyed by vessels of all
States in the territorial waters of Nigeria in accordance with International
Law and laws enacted by Nigeria for this purpose.

(4) Where the distance between the coast of Nigeria and the coast
of a neighbouring State is less than 24 nautical miles, Nigeria shall delimit
the territorial waters boundary with that State, on the basis of agreement
with that State and where agreement cannot be reached, unless there is an
agreement with the State to the contrary, the territorial waters boundary with
that State shall be the median line every point of which is equidistant from
the nearest points on the baselines from which the breadth of the territorial
waters of Nigeria and that State is measured.

(5) Having regard to International Law and State practice, the
Minister or Appropriate Authority may by regulations amend limits of
territorial waters as the may be necessary from time to time.

4.-(1) Any act or omission which:

(a) is committed within the territorial waters of Nigeria, whether by
a citizen of Nigeria or a foreigner; and

(b) would, if committed in any part of Nigeria, constitute an
offence under the law in force in that part, shall be an offence under that law
and the person who committed it may be arrested, tried and punished for it
as if he had committed it in that part of Nigeria.

(2) Subsection (1) of this section-

(a) shall apply whether or not the act or omission in question is
committed on board or by means of a ship or in, on or by means of a structure
resting on the sea bed or subsoil; and

Jurisdiction in respect of offences committed in territorial waters
(b) shall, in the case of an act or omission committed by a foreigner on board or by means of a foreign ship, apply notwithstanding that the ship is a foreign one.

(3) For the purposes of the issue of a warrant for the arrest of any person who is by virtue of this section liable to be tried in some part of Nigeria for an offence, that offence may be treated as having been committed in any place in that part.

(4) Any jurisdiction conferred on any Court by this section shall be without prejudice to any jurisdiction (and in particular any jurisdiction to try acts of piracy as defined by the law of nations) exercisable apart from this section by that or any other Court.

(5) Nothing in this section shall be construed as derogating from possessed by Nigeria under the law of nations, whether in relation to persons on board such ships or otherwise.

(6) In this section-

"foreigner" means a person who is not a citizen of Nigeria;

"foreign ship" means a ship of any country other than Nigeria;

"ship" includes floating craft and floating structures of every description.

(7) Subject to the provisions of this section, a Nigerian Court shall not try a person who is not a citizen of Nigeria for any offence committed on the open sea within the territorial waters of Nigeria unless before the trial the Attorney-General of the Federation has issued a certificate signifying his consent to the trial of that person for that offence;

(8) Nothing in subsection (1) of this section-

(a) shall affect any power of arrest, search, entry, seizure or custody exercisable with respect to an offence which has been, or is believed to have been, committed as aforesaid;

(b) shall affect any obligation on any person in respect of a recognizance or bail bond entered into a consequence of his arrest, or the arrest of any other person, for such an offence;
(c) shall affect any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence;

(d) shall affect anything done or omitted in the course of a trial unless in the course of the trial objection has already been made that, by reason of Subsection (1) of this section, the court is not competent on proceed with the trial, or

(e) shall, after the conclusion of a trial, be treated as having affected the validity of the trial if no such objection as aforesaid was made in the proceedings at any stage before the conclusion of the trial.

(9) Subsection (1) of this section shall not apply to the trial of any act of piracy as defined by the law of nations.

(10) A document purporting to be a certificate issued for the purposes of subsection (1) of this section and to be signed by the Attorney-General of the Federation shall received in evidence and shall, unless the contrary is proved, be taken to be a certificate issued by the said Attorney-General.

(11) Nothing in this section shall be construed as derogating from the provisions of any other enactment restricting the persecution of any proceedings or requiring the consent of any authority to the prosecution thereof;

(12) in this section, "offence" means any act or omission which by virtue of section 2 of this Act or any other enactment is an offence under the law of Nigeria or any part thereof.

5.- (1) The contiguous zone of Nigeria shall be the sea beyond the territorial waters but within a distance of 24 nautical miles from the baselines from which the breadth of the territorial waters is measured.

(2) The Minister or Appropriate shall have the jurisdiction to exercise control as it deems necessary to prevent the infringement of its customs, fiscal, immigration or sanitary laws and regulations within the

Contiguous zone
territory or territorial waters of Nigeria.

(3) Where persons who are responsible for the enforcement of customs, fiscal, immigration or sanitary laws and regulations in Nigeria have reasonable grounds to believe that a person in the contiguous zone of Nigeria if he were to be allowed entry into the territory or territorial waters of Nigeria would commit an offence, they shall prevent the entry of that person into the territory or territorial waters of Nigeria and the commission of the offence.

(4) Where there are reasonable grounds to believe that a person within the territory or territorial waters of Nigeria has committed an offence against the customs, fiscal, immigration or sanitary laws and regulations of Nigeria, power of arrest, entry, search and seizure or other powers that can be exercised in Nigeria with regard to such offence shall be exercised in the contiguous zone of Nigeria.

(5) The powers of arrest and seizure in the contiguous zone of Nigeria shall be exercised subject to the consent of the Attorney General of the Federation and Minister of Justice.

(6) The Minister or Appropriate Authority shall have the power to make Regulations to put in place measures aimed at the prevention of the infringement of the customs, fiscal, immigration, sanitary laws and regulations of Nigeria in the Contiguous zone.

6.- (1) Subject to any other law, Nigeria Shall with have regard to objects of an archaeological or historical nature found in the contiguous zone, the same rights and powers as it has in respect of its territorial waters.

(2) In order to control traffic in such archaeological and historical objects, the Appropriate Authority may presume that their removal from the seabed in the contiguous zone without its approval would result in an infringement within its territory or territorial waters of its laws concerning such objects.

(3) The Minister or Appropriate Authority may make regulations for the purpose of ensuring that preventive measures are put in place to control,
avoid or prevent the traffic in archaeological and historical objects found in
the contiguous zone and that adequate licensing procedures are put in place
for their removal where necessary.

7.-(1) Any person who while in the territory or the territorial sea of
Nigeria commits an offence against the customs, fiscal, immigration or
sanitary laws and regulations of Nigeria and is apprehended in the
contiguous zone shall be charged to the Federal High Court which shall have
jurisdiction to entertain such matters.

(2) Any person who while in the contiguous zone of Nigeria
removes from the seabed of that zone, any archaeological or historical objects
without the approval of the appropriate authority commits an offence and
shall be charged to the Federal High Court which shall have jurisdiction to
entertain such matters.

(3) Such offences shall be treated for the purposes of this Act as
taking place in Nigeria.

(4) Any person found guilty of removing archaeological or
historical objects from the seabed of the contiguous zone of Nigeria in
violation of this Act shall, on conviction be liable to imprisonment for a term
of not less than two years or fine of not less than 500,000.00.

8.-(1) The Exclusive Economic Zone of Nigeria shall be the area
beyond and adjacent to the territorial waters and which extends to a distance
of 200 nautical miles from baselines used to measure the breadth of the
territorial sea.

(2) In cases where part of the Exclusive Economic Zone of Nigeria
overlaps with part of the Exclusive Economic Zone of a neighbouring State,
the delimitation between the Exclusive Economic Zone of Nigeria and the
Exclusive Economic Zone of the other State shall be effected by agreement
in good faith on the basis of international law.

(3) In the absence of an agreement, the delimitation of this zone as
between Nigeria and any other coastal State involved shall not extend
9.- (1) In the Exclusive Economic Zone, Nigeria has-

(a) sovereign rights for the purposes of exploring, exploiting, conserving and managing the natural resources whether living or non-living resources of the waters superjacent to the seabed and of the seabed and its subsoil and with regard to other activities for the economic exploration and exploitation of the zone, such as, the production of energy from the water, currents and winds;

(b) jurisdiction as provided for in the relevant provisions of the Convention with regard to-

(i) the establishment and use of artificial islands, installations and structures,

(ii) marine scientific research,

(iii) the protection and the preservation of the marine environment;

(c) other rights and duties provided for in the Convention

(2) Such rights or jurisdiction shall vest in the Federal Government of Nigeria who shall exercise such by itself, or by such Minister or Appropriate Authority as it may designate in that behalf either generally or in any special case.

(3) Nigeria may, modify the application of the provisions of subsection (1) of this section, by virtue of any Treaty, Convention or agreement to which Nigeria is a Party.

10.- (1) Nigeria shall designate under this section for social protection, areas within its internal waters, territorial water or the exclusive economic zone as marine protected areas.

(2) Such areas that are designated as marine protected area shall be used for the conservation and protection of-

(a) endangered or threatened marine species;

(b) unique habitats;
(c) commercial and non-commercial fishery resources and their
habitats; and
(d) marine areas of high biodiversity.

11. (1) In the Exclusive Economic Zone and on the Continental
Shelf, Nigeria shall have the exclusive right to construct, authorise and
regulate the construction, operation and use of artificial islands, installations
and structures and may authorise an Appropriate Authority to exercise this
right.

(2) Nigeria shall have exclusive jurisdiction over such artificial
islands, installations and structures, including jurisdiction with regard to
customs, fiscal, health, safety and immigration laws and regulations.

(3) The Minister or Appropriate Authority shall give due notice of
the construction of such artificial islands, installations or structures and
permanent means for giving warnings of their presence shall be maintained.

(4) The Minister or Appropriate Authority may direct that any
installation or structure which is abandoned or becomes disused shall be
removed to ensure safety of navigation,

(5) Such removal of disused or abandoned installation or structure
shall be subject to fishing, the need to protect the marine environment, and
the rights and duties of other states

(6) The Minister or Appropriate Authority shall give due publicity
to the depth, position and dimensions of any installations or structures not
entirely removed.

(7) The appropriate Authority may, for the purpose of protecting an
artificial island, installation or structure and for safety of navigation, by
order published in the Federal Gazette, prohibit any ship or person from
entering a designated area specified in such order.

(8) If any ship enters any part of a designated area in contravention
of an order made under this section, its owner or master shall be liable on
conviction to imprisonment for twelve months or to a fine of N5,600,000 or
both, unless he proves that the prohibition imposed by the order was not, and would not on reasonable inquiry have become known to the master or the owner of the ship.

(9) In this section, "designated area" means any area of the Exclusive Economic Zone or Continental Shelf so designated by the appropriate authority for the purposes of subsection (1) of this section.

(10) For the purposes of this Section, "due notice or due publicity" shall include the timely issuance of notices to mariners under the Merchant Shipping Act.

12.-(1) Nigeria shall have the power to exercise control as it deems necessary, to prevent infringement of its customs, fiscal, health, safety and immigration laws and regulations within its exclusive economic zone.

(2) Any person who while within the exclusive economic zone of Nigeria commits an act or makes an omission which infringes against the customs, fiscal health, safety or immigration laws and regulations shall be charged before the Federal High Court.

(3) Such acts or omission shall be treated for the purposes of this Act, as taking place in Nigeria.

(4) Arrested vessels and their crews shall be promptly released on their provisions of reasonable bond or other more acceptable security.

13.-(1) Nigeria shall promote the optimum utilization of its exclusive economic zone.

(2) There shall be a determination of the capacity of Nigeria to harvest its living resources, in the exclusive economic zone.

(3) If Nigeria does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements give other States access to the surplus of the allowable catch.

(4) In giving access to other States to its exclusive economic zone, it shall consider the significance of such living resources to its economy and its national interest.
14. (1) The Continental Shelf of Nigeria comprises the seabed and subsoil of the submarine areas that extend beyond Nigeria's territorial waters throughout the natural prolongation of Nigeria's land territory to the outer edge of the continental margin, or to distance of 200 nautical miles from the baselines from which the breadth of the Nigeria's territorial waters is measured. Where the outer edge of the continental margin does not extend up to that distance and for the avoidance of doubt, any rights in the seabed and subsoil of the continental shelf of Nigeria and its resources shall vest in the Federal Government of Nigeria.

(2) Subject to International Law and State practice, the outer limits of the Continental Shelf of Nigeria shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial water is measured.

(3) In cases where part of the continental shelf of Nigeria overlaps with part of the continental shelf of a neighbouring coastal State, then the delimitation between the continental shelf of Nigeria and the Continental Shelf of the other State shall be effected by agreement in good faith on the basis on international law to achieve equitable solution.

(4) The Minister or Appropriate Authority may on the recommendation of the National Boundary Commission make regulation causing charts to be prepared and prescribing geographical co-ordinates of points from which the outer limits of the continental margin or other outer limits of the continental shelf of Nigeria may be determined.

(5) The Minister or Appropriate Authority shall submit to the Secretary General of the United Nations Organisation charts and relevant information, including geodetic date permanently describing the outer limits of Nigeria's continental shelf.
15.- (1) Nigeria has Sovereign and exclusive rights over its continental shelf for the purposes of exploring and exploiting the minerals and other non-living natural resources of the seabed and sub-soil of the continental shelf, together with living organisms belonging to sedentary species and for the avoidance of doubt, any rights of Nigeria in the continental shelf are vested in the Federal Government of Nigeria and shall be exercised by such Appropriate Authority as the Government may designate in that behalf either generally or in any specific case.

(2) The application of the provisions of subsection (1) of this section, may be modified by Nigeria by virtue of any Treaty Convention or Agreement to which Nigeria is a party.

(3) Nigeria shall have exclusive right to authorize, permit and regulate drilling for all purposes on its continental shelf.

(4) If any geological petroleum structure or petroleum field, or any single geological structure or field of any mineral deposit extends across the outer limits lines of Nigeria's extended continental shelf and the part of such structure or field which is situated on one side of the dividing line is exploitable, wholly or in part, from the other side of the dividing line, Nigeria shall in good faith seek to reach agreement with interested parties as to the manner in which the structure or field shall be most effectively exploited and the manner in which the proceeds deriving there from shall be equitably apportioned.

16.- (1) Any act or omission which-

(a) takes place on, under or above an artificial island, installation or structure in a designated area or any waters within 200 meters of such island, installation or structure; and

(b) would, if taking place in any part of Nigeria, incur liability under any enactment in force in that part, shall be treated for the purposes of that law as taking place in Nigeria.

(2) In this section, "enactment" means any Act or Law relating to
criminal or civil law (including torts) and any subsidiary instrument made
hereunder, including rules of court and in matters other than criminal
matters, rules of law applicable to or adopted in any part of Nigeria.

17.-(1) Any person commits an offence in, under and above an
artificial island installation or structure in a designated area if he unlawfully
and intentionally:

(a) seizes or exercise control over by force or threat thereof or any
other form of intimidation;

(b) performs an act of violence against any person thereon if that
act is to endanger safety;

(c) destroys or causes damage which is likely to endanger its
safety; or

(d) places or causes to be placed thereon by any means whatsoever,
a device or substance which is likely to destroy it or likely to endanger its
safety;

(e) intimidates a population, company or compels a government or
an international organisation to do or to abstain from doing any act;

(f) uses against or discharges therefrom any explosive, radioactive
material or BCN weapon in a manner that causes or is likely to cause death or
serious injury or damage;

(g) discharges oil, liquefied natural gas, or other hazardous or
noxious substance, which is not covered by subparagraph (a), in such
quantity or concentration that causes or is likely to cause death or serious
injury or damage;

(h) threatens, with or without a condition, to commit any of the
offences set forth above.

(2) The Prosecution of offences under this Section shall be at the
instance of the Attorney-General of the Federation.

(3) All such offences shall be tried by the Federal High Court.

18. Where a person is found guilty of an offence under S17 of this
Act, he shall on conviction be liable to imprisonment of not less than 1 year or a fine of N2,500,000 or both.

(2) Where a body corporate is guilty of an offence under this section and the offence is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or of any person purporting to act in any such capacity, he, as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the body corporate is found to be guilty of the offence, it shall be liable to pay a fine of not less than N5,000,000,00.

(4) If a director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity is found guilty, he shall on conviction be liable to imprisonment not less than 1 year or a fine of not less than N2,500,000 or both.

19.- (1) The delineation of the course for the laying of pipelines and cables on the continental shelf of Nigeria is subject to the consent of Nigeria.

(2) Nothing in this section shall affect the right of Nigeria to set terms and conditions for cables and pipelines entering its territory or territorial waters or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operation of artificial islands, installations and structures under its jurisdiction.

20.- (1) The Minister or Appropriate Authority may make such regulations as he thinks fit for the purposes of this Act.

(2) In particular and without prejudice to the foregoing power, regulations made under subsection (1) of this section, may provide for-

(a) the regulation of the conduct of any person in the territorial waters, the continental shelf or the exclusive economic zone;

(b) the regulation of the exploration and exploitation, conservation
and management of the resources of the continental shelf and the exclusive economic zone;

(c) the regulation of the construction, maintenance of the artificial islands, offshore terminals, installations and other structures and devices;

(d) the preservation and the protection of the marine environment and the prevention and control of marine pollution;

(e) the regulation and conduct of scientific research;

(h) the fees in relation to licences; and

(g) any matter incidental to any of the matters specified in paragraphs (a).

21.-(1)The-

(a) Territorial Waters Act (as amended); and

(b) Exclusive Economic Zones Act (as amended); are hereby repealed.

22. Any Provisions of any existing laws with respect to any of the maritime zones of Nigeria that are inconsistent with any provisions of this Act shall be read subject to the provisions of this Act.


24. In this Act, unless the context otherwise requires:

"Appropriate Authority" means the Federal Government of Nigeria or any of its Agencies so designated;

BCN weapons means biological weapons which are microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes, chemical weapons which are toxic chemical and their precursors and nuclear weapons and other nuclear explosives devices;

"Convention" includes the United Nations Convention on the Law of the
Sea signed at Montague Bay on the 10th December, 1982 and its subsequent amendments and protocols;

"Federal High Court" means the Court that has jurisdiction to try matters arising in the Maritime Zones of Nigeria.

"Installation or structure" includes-

(a) any offshore drilling unit, production platform, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredger, floating crane, pipe lining or other barge or pipeline, anchor, anchor cable or rig pad used in connection therewith;

(b) any ship, anchor, anchor cable or rig pad used in connection therewith; and

(c) any other work or works as may be prescribed;

"Low Tide Elevations" means any naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide;

"Minister" includes the Minister responsible for transport or any other Minister of the Federal Republic of Nigeria whose mandate covers any of the provisions of this Act;

"Nautical Miles" means the International Nautical Miles of 1852 meters;

"Sedentary species" means organisms which at the harvestable stage either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil; and

"Ship" includes every description of vessel, boat, ship or craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water without regard to methods or lack of propulsion.

25. This Bill may be cited as the Nigerian Maritime Zones (Enactment) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Exclusive Economic Zone Act E7 LFN 2010 and the Territorial Waters Act Cap. T5 LFN 2010 and enact the Maritime Zones Act to provide for the Maritime Zones of Nigeria.