

LEAD DEBATE ON 2ND READING OF A BILL FOR AN ACT TO AMEND
NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS
ENFORCEMENT AGENCY (AMENDMENT) BILL 2017:

I. Introduction.

Nigeria has been trudging on to strike a balance between its economic development and the sustainability of its environment that is characterized by severe environmental challenges including crude oil contamination of the Niger Delta's marine environment, devastating flood, ocean surge and storm threatening Riverine communities. This is the result of the activities of major oil producing companies. There is also the raging desertification in the North. About 60 years ago, the expanse of land in the northern fringes of Nigeria was a flourishing savannah full of human activity. Today it is becoming barren and deserted. Up North roads and villages are being buried under sand dunes. Rivers and lakes are silting. This also is as a result of desertification occasioned by tree felling, over grazing by animals, etc which are also man made. As a result of this eleven states in the North have land that has lost its nutrients and can no longer support farming by men and livelihood for animals. The air in our big cities like Lagos, Ibadan, Port Harcourt, Aba, Onitsha, Kano and Kaduna are full of carbon monoxide produced by fumes from factories and automobiles.

Since all these happenings are certainly the results of human activities, there is a need to tell ourselves that we must change our ways in order to preserve and protect the environment for all generations to come. Mr. Speaker

countless animals are dying because they have nowhere left to go. People are now afraid to go in the sun now because of the holes in the ozone layer.

That was why in October 2016, almost the whole world gathered in Paris, France and, for the 1st time, all the nations subscribed to an agreement called the Paris Accord, by which the world focus on a common cause to undertake efforts to combat climate change and adapt to its effect. The agreement requires all parties to put forward their best efforts through **"nationally determined contributions"** to avert the threat of climate change.

Unfortunately Mr. Speaker, Hon. colleagues the USA, that greatest beacon of hope for sustenance of democracy and freedom no longer shines as bright because about a week ago the activities of a man who does not have respect for women, and who has now made an effort to reverse the efforts the world put in the Paris Agreement on environment has withdrawn America from the Paris agreement. "I am elected to represent the citizens of Pittsburg not Paris" he said. And with these words by the President Donald Trump pronouncement the USA, has Joined Nicaragua and Syria in rejection of an accord signed by 159 Countries.

II. **The National Environmental Standards Regulations Enforcement Agency (NESREA) Act, 2007.**

Because of the importance the Nigerian legislature attached to protection of our environment, the National Assembly had in 2007 passed the National Environmental Standards and Regulations Enforcement Agency (Establishment) Bill, 2007 that created an Agency (NESREA)

- i. to ensure a cleaner and healthier environment for Nigerians, to inspire a collective responsibility in building an environmentally conscious society for the achievement of sustainable development in Nigeria,
- ii. to enforce all environment laws, guidelines, policies, standards and regulations in Nigeria; as well as,
- iii. to process the use of equipment or technology that may undermine environmental international agreements, protocols, conventions and treaties to which Nigeria is signatory.

This Bill was assented to on 30th July, 2007 by President Umaru Musa Yaradua, thus heralding the new law on environmental protection. The NESREA Act which repealed the Nigerian flagship law on the environment ie the Federal Environmental Protection Agency Act (FEPA Act) is now the primary law on environmental protection.

The vital provisions of this law and their vitality in the crusade for a healthier and safer Nigerian Environment are contained in Part II of the Act which also contains the establishment of the Agency charged with "the protection and development of the Nigerian environment and related matters." Part III focuses on the composition of the Council and its role within the Agency, Part IV focuses on the structure of the Agency and their respective areas of specialization, while Part V is on the enforcement powers of the Agency.

III. Bill for an Act to amend the National Environmental Standards and Regulations Enforcement Agency (NESREA)

The management of NESREA, Hon. Obinna Chidoka and myself together with our colleagues Hon. Dr. Istifanus Gyang and Hon. Samuel Ikon have worked assiduously on the review of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007. The purpose of the review is to address certain observed legislative inadequacies and noticeable drafting errors in the enabling Act which has continued to stall the operations of the Agency and weaken enforcement measures.

Areas of proposed Amendment.

1. In the first place one of the major changes sought to be addressed by the review is the inclusion of the Federal Ministry of Health in the composition of the Governing Council of the Agency. This is long overdue considering the very critical and strategic role of the Federal Ministry of Health in public health and environment matters.
2. Secondly, it has also become imperative to empower the Agency to be able to establish and enforce administrative penalties. This will in no small measure strengthen her enforcement measures. Indeed, Section 30 of the Act is a major impediment in the enforcement drive of the Agency; hence the need for an amendment, to enable the Agency's authorized officer(s) to seal and close down premises or facilities, whose pollution to the environment is of imminent danger to life and property, while an application to the Court for a warrant or order is being sought.

3. Thirdly, the provisions on penalties are no longer deterrent enough as the hands of the Judges are tied by the operational words, "not exceeding". There is therefore the need to substitute the word, "not exceeding" wherever it appears in the Act with the words "not less than".

4. Finally, to do away with ambiguity and inconsistencies in the law there is also the need to address the issue of wrong cross-referencing. This can be seen for instance under Section 31 which provides for offences and penalties but unfortunately, made reference to section 3 of the Act, which is on the composition but of the Governing Council of the Agency.

