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THREAT TO MARINE ENVIRONMENT: AN EVALUATION OF THE ROLE OF NIGERIAN MARITIME ADMINISTARTION AND SAFETY AGENCY (NIMASA) IN THE PROTECTION OF MARINE ENVIRONMENT IN NIGERIA

Abdulkadir Bolaji Abdulkadir (PhD)

ABSTRACT

The protection of national and international waterways are fundamental for obvious reasons. The ocean serves as a medium of transportation, a source of economic exploitation of such mineral resources as crude oil, and a source of food in the form of fishing and shrimp fishing. This has made the issue of protection of waterways a subject of serious concern to states, international organisations and other stakeholders in the maritime domain. The Nigerian maritime is currently facing a lot of challenges either from the immediate threatening of marine environment or obstruction of maritime trade and businesses. It is on this premise that this paper investigates into the roles of Nigerian Maritime and Administration Safety Agency in the protection of maritime environment. The discussion in this paper is limited to namely: the importance of Nigerian maritime environment, the key challenges to marine environment and the role of Nigerian Maritime and Administration Safety Agency in the security of maritime environment with a view to make the necessary suggestions to improve the system.

1. INTRODUCTION

The marine environment is a vast, diverse, dynamic, and complex area with major environmental issues. The oceans cover more than 70 per cent of the Earth's surface and are estimated to contain more than 90 per cent of its living biomass.[1] Ocean ecosystems are home to a major part of the biodiversity of this planet and support all life.[2] They provide oxygen, rain and food, manage vast amounts of human pollutants, buffer the weather, and regulate global temperatures. But

[1] Natural and Cultural Heritage Department for Environment and Heritage For the Government of South Australia (2004) "Living Coast Strategy" 1-4

[2] Pauly, D.; Christenen, V.; Dalsgaard, J.; Froese, R.; Torres, F. Jr. (1998) "Fishing Down Marine Food Webs" Science 279: 860-863;Shears NT, Babcock RC (2003) "Continuing Trophic Cascade Effects After 25 Years Of No-Take Marine Reserve Protection" Marine Ecology Progress Series 246: 1-16.

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despite the oceans' great natural capacity for self-purification, their functioning, health and productivity are severely threatened by human activities.[3] The unsustainable exploitation of the oceans' living natural resources has brought many stocks to the brink of collapse, with over 80 per cent of the world's fish stocks either fully exploited or overexploited.[4] Thus, vicious fishing practices and the increase in illegal, unreported and unregulated (IUU) fishing severely threaten not only marine biodiversity, but also the fishing industry itself upon which the livelihoods of some 540 million people, or eight per cent of the world's population rely.[5] The exploitation of other natural resources such as hydrocarbons and minerals, together with the laying of pipelines and cables, has damaged vulnerable ecosystems. Pollution from both land-based and marine-based sources continues to increase with the industrialization and globalization of world trade.[6] The marine environment is a precious asset: a heritage that must be protected, conserved and properly valued. The ultimate aim is to keep our oceans and seas biologically diverse and dynamic, and also safe, clean, healthy and productive. The marine environment is a vital resource for life on Earth. It is our greatest source of biodiversity and thus essential for our economic prosperity, social well-being and quality of life. Therefore, this paper examine the key threats to marine environment. It also examines the role of Nigerian Maritime Administration and Safety Agency (NIMASA) in the protection of marine environment and some of the major challenges affecting the efficiency and effectiveness of the Agency in the performance of their duties.

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[3] Kaiser, M. J., (2005) *Marine Ecology: Processes, Systems, and Impacts*, Oxford: Oxford University Press.

[4] UNEP (2002c). *Vital Water Graphics: An Overview of the State of the World's Fresh and Marine Waters*. United Nations Environment Programme, Nairobi. http://www.unep.org/vitalwater [last visited 26th November, 2012]

[5] Bache, S. J. (2002) Turtles, Tuna and Treaties: Strengthening the Links between International Fisheries Management and Marine Species Conservationl, *Journal of Wildlife Law and Policy*, Vol. 5, No. 3, pp. 49-64 at p. 49.

[6] See also Carr, C. J and Scheiber, H. N. (2002) —Dealing with a Resource Crisis: Regulatory Regimes for Managing World's Marine Fisheriesl, *Stanford Environmental Law Journal*, Vol. 21, Issue 1, pp. 45-79 at p. 56; Fagenholz, A. (2004) A Fish in Water: Sustainable Canadian Atlantic Fisheries Management and International Law, *University of Pennsylvania Journal of International Economic Law, Vol. 25, Issue 2, pp.* 639-667 at p. 645. Oceana (2007) *Towards Sustainable Fishing*. Washington, D. C: Oceana, p. 1. Available at http://training.oceana.org/fileadmin/oceana/uploads/dirt_fishing/for_amanda/Towards_Sustainable_Fishing_Paper_Nov07.pdf (accessed October 6, 20013).

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2. KEY CHALLENGES TO THE MARINE ENVIRONMENT

There is continuing pressure on the marine environment from conflicting activities including aquaculture, agriculture, fisheries, urbanization, industrial developments, shipping, conservation and tourism. The marine environment is faced with a number of increasingly severe threats. These include loss or degradation of biodiversity and changes in its structures, loss of habitats, contamination from dangerous substances, and the impacts of climate change. In some parts of Africa, the very structures and functions of our seas are being jeopardized. The Northeast Atlantic, the Mediterranean and the Black Sea are three of the world's seven 'problem' regions where fish stocks are in greatest need of recovery. Marine habitats are being destroyed, degraded and disturbed. These threats are caused by pressures from various sea-based activities like oil and gas exploration, dredging and extraction of sand and gravel, shipping, commercial fisheries and tourism. Meanwhile, land-based activities (agriculture and industry in general) account for 80 % of marine pollution. These pressures are exacerbated by the increasing impact of climate change. For example, the commercial fish species that require colder waters are now being driven northwards as sea temperatures rise. The aim of protecting marine environment is to safeguard the long-term productivity of economic and social activities such as fisheries, maritime transport, agriculture, industry, tourism, and coastal and regional development. Marine environments are under threat from various factors. These factors are briefly discussed below:

i. Over Exploitation

Overexploitation or overfishing is the removal of marine living resources to levels that cannot sustain viable populations. Ultimately, overexploitation can lead to resource depletion and put a number of threatened and endangered species at risk for extinction.[7] A greater variety of species at a higher trophic level is exploited in the sea than on land: humans exploit over 400 species as food resources from the

[7]Worm, B., "Impacts Of Biodiversity Loss On Ocean Ecosystem Services" Science 314, 787-790 ; Thompson, R.C., Crowe, T.P, Hawkins, S.J. (2002) "Rocky Intertidal Communities: Past Environmental Changes, Present Status And Predictions For The Next 25 Years" Environmental Conservation 29(2): 168–191' Hawkins, S.J., Corte-Real, H.B.S.M., Pannacciulli, F.G., Weber, L.C. & Bishop, J.D.D. (2000) "Thoughts On The Ecology And Evolution Of The Intertidal Biota Of The Azores And Other Atlantic Islands" Hydrobiologia 440: 3–17.

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marine environment; whereas on land only tens of species are harvested for commercial use.[8]

According to the United Nations Food and Agriculture Organization (FAO) over 25% of the entire world's fish stocks are either overexploited or depleted and 52% are fully exploited.[9] Thus a total of almost 80% of the world's fisheries are fully to overexploited, depleted, or in a state of collapse. Though these estimates are considered rather conservative, recently, a study showed that 29% of fish and seafood species have collapsed (i.e. their catch has declined by 90%) and are projected to collapse within by 2048, and worldwide, about 90% of the stocks of large predatory fish stocks are already collapsed.[10]

All fishing activities, if not conducted in a sustainable non-destructive manner, can lead to overexploitation of marine living resources.[11] Overexploitation of marine resources has major impacts on marine systems as a whole, but target species are generally the most impacted. Overfishing not only has direct effects on target populations but also results in indirect effects such as ghost fishing.[12] Ghost fishing occurred from fishing nets that have been left or lost in the ocean by fishermen. These nets, often nearly invisible in the dim light, can be left tangled on a rocky reef or drifting in the open sea. They can entangle fish, dolphins, sea turtles, sharks, dugongs, crocodiles, seabirds, crabs, and other creatures, including

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[8] Jennings, S. & Kaiser, M. (1998) "The Effects of Fishing on Marine Ecosystems" *Adv. Mar. Biol.* 34: 201-352. Sydow, J.S. (1990) "Cruise Report Experiments on the Interaction Fishing Gear" BEON Rapport 8, 1-57.

[9] Sala, E., Boudouresque, C.F., Harmelin-Vivien, M. (1998) "Fishing, Trophic Cascades, And The Structure Of Algal Assemblages: Evaluation Of An Old But Untested Paradigm" Oikos 82:425–439:Duggins, D.O. (1980) "Kelp Beds And Sea Otters: An Experimental Approach" Ecology 6:447–453

[10] World Bank (2007) World Development Indicators: Population Dynamics, Washington D. C : World Bank, p. 42. Available at http://siteresources.worldbank.org/DATASTATISTICS/Resources/table2_1.pdf [Accessed last April 12 2013]; World Bank (2010) *World Development Indicators & Global Development Finance 2010. See the section on* Population total. Available at http://search.worldbank.org/data?qterm=population&language=EN&format=html (accessed 3 September 2013).

[11] Judicello, S., Weber, M. and Wieland, R. (1999) *Fish Markets and Fishermen: The Economics of Overfishing*, London: Earthscan Publications Ltd., p. 8.

[12] See Walker, G. K. (2005) —Defining Terms in the 1982 Law of the Sea Convention IV: The Last Round of Definitions Proposed by the International Law Association (American Branch) Law of the Sea Committeel, *California Western International Law Journal*, Vol. 36, No. 1, pp. 133-183, 178-179.

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the occasional human diver. Acting as designed, the nets restrict movement, causing starvation, laceration and infection, and in those that need to return to the surface to breathe suffocation.[13]

II. Population Growth

The exponential growth in human population experienced in last decades has led to an overexploitation of marine living resources to meet growing demand for food. The rise in the world population from about 5.2 billion in 1990 to 6.6 billion people in 2007 puts additional demands on all marine natural resources.[14] The world demand for fish is estimated to reach 186 million tonnes in 2030, which is nearly 90 million tonnes more than the 1999 demand and unfortunately, the total world fish supply is more likely to be in the range of about 150 – 160 million tonnes.[15] The FAO envisages that by 2030 an extra 37 million tonnes of fish per year will be required to sustain present levels of fish utilization for an intensifying world population.[16] This disparity continues to rise on a day by day basis as the world population grows.[17] This is a clear indication of the need to protect the

[13] Babcock, R.C., Kelly, S., Shears, N.T., Walker, J.W., Willis, T.J. (1999) "Changes In Community Structure In Temperate Marine Reserves" Marine Ecology Progress Series 189: 125-134 ; Ballantine, W.J. and Langlois, T.J. (2007) "Marine Reserves : The Need For Systems" Hydrobiologia 606, 35-44.

[14] World Bank (2007) World Development Indicators: Population Dynamics, Washington D. C . World Bank, p. 42. Available at http://siteresources.worldbank.org/DATASTATISTICS/Resources/table2_1.pdf [Accessed last April 12 2013]; World Bank (2010) *World Development Indicators & Global Development Finance 2010. See the section on* Population total. Available at http://search.worldbank.org/data?qterm=population&language=EN&format=html (accessed 3 September 2013).

[15] *Ibid.*

[16] *FAO Newsroom* (2007). Aquaculture Only Way to Fill the Coming —Fish Gapl: Top Ministers Debate the Future of Fish Farmingl, *FAO Newsroom*, Rome: FAO. Available at http://www.fao.org/newsroom/en/news/2007/1000701/index.html (accessed November 30, 20013). World Bank (2007b) *World Development Report 2008: Agriculture for Development*, Washington: World Bank, p. 1. Available at http://siteresources.worldbank.org/INTWDR2008/Resources/2795087-1192111580172/WDROver2008-ENG.pdf (accessed December 1, 20013).

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marine ecosystems in order to meet the continued increase in the world population.

iii. Poverty And Coastal Settlement

Poverty and coastal settlement are inextricably connected to the world population dilemma. First, according to the World Bank, 2.1 billion populations live on not as much as $2 a day, and 880 million on less than $1 a day.[18] Majority of these people rely on agriculture, which includes fishing, for their livelihoods. Second, the noticeable tendency is that more population are moving to the coast, and by 2025 it is expected that 75% of the world's population will live in coastal areas.[19] The consequence of coastward swings in populations is that more low-income earners are directly or indirectly moving into the fishing industry, consequently escalating the demands on fishery and other marine resources.[20]

iv. Non-Native Species Invasions

The introduction of destructive marine organisms to fresh marine environments is thought to be one of the utmost threats to the world's oceans.[21] An unfamiliar or non-native species is one that has been deliberately or inadvertently transported

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[17] See Walker, G. K. (2005) —Defining Terms in the 1982 Law of the Sea Convention IV: The Last Round of Definitions Proposed by the International Law Association (American Branch) Law of the Sea Committeel, *California Western International Law Journal*, Vol. 36, No. 1, pp. 133-183, 178-179.

[18] World Bank (2007b) *World Development Report 2008: Agriculture for Development*, Washington: World Bank, p.1.Availableathttp://siteresources.worldbank.org/INTWDR2008/Resources/27950871192111580172/WDROver2008-ENG.pdf (accessed December 1, 2013).

[19] Ibid.

[20] In 2005, it was estimated that approximately 2.2 billion people or 39% of the world's population live within 100 km of a coastline and that this figure is set to double by 2025. Kaiser, M. J., *et al.*, (2005) *Marine Ecology: Processes, Systems, and Impacts*, Oxford: Oxford University Press. See particularly the preface of this textbook. See also para. 17.3 of Chapter 17, Report of the United Nations Conference on Environment and Development (Agenda 21) and von Zharen, W. M., (1998) *op. cit.*, pp. 23-24.

[21] Marine Biodiversity Wikki, " Non-Native Species Invasions" retrieved from http://www.marbef.org/wiki/Non-native_species_invasions [accessed on November 2013]

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and released into an environment outer of its famous or resident geographical range or habitat. Such species are described as 'invasive' if they are ecologically and/or economically injurious.[22] Insidious species can noticeably change the structure and function of aquatic ecosystems by varying biodiversity and eliminating vital components of the food chain.[23]

Even though all seas are interrelated, there are clear-cut dispersion barriers such as salinity, temperature gradient or ocean currents that keep local communities distinct. Two indistinguishable habitats can have different species communities with diverse types of interactions contributing to the global richness of biodiversity.[24] Indigenous or native species are those living within their natural range (past or present) including the area that it can reach and occupy using its natural dispersal system.[25] By contrast, introduced species are transported either intentionally or accidentally by human-mediated vectors into habitats outside their native range. These species are also termed as alien, exotic, invasive, foreign, non-native, immigrant, neobiota, naturalized, or non-indigenous. Some biota cannot be suitably confirmed to be neither native nor exotic and these are called cryptogenic species.[26] For most coastal species the open ocean environment is hostile, preventing them from spreading into habitats similar to their own but located elsewhere. Distances separating such habitats might be too long to overcome either through their active swimming abilities or passive floating in water currents. The procedures by which humankind aids introduction of foreign

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[22] Ibid.

[23] Ibid.

[24] Brown, J. and Macfadyen, G. (2007) —Ghost Fishing in European Waters: Impacts and Management Responses‖, *Marine Policy*, Vol. 31, Issue 4, pp. 488-504 at p. 490; Bailey, G. (2009) FAO says —Ghost Fishing‖ Hurts Marine Environment, New York: UN Radio. Available at http://www.unmultimedia.org/radio/english/detail/74048.html (accessed May 20, 2013); Hunter, D., Salzman, J. And Zaelke, D. (2002) *International Environmental Law and Policy*, 2nd ed., New York: Foundation Press pp. 674-675.

[25] Agardy, T. (2003), —An Environmentalist's Perspective on Responsible Fisheries: the Need for Holistic Approaches,‖ In: Sinclair M. and Valdimarsson, G. (eds.) *Responsible Fisheries in the Marine Ecosystem*, Oxon, FAO & CABI Publishing, pp. 65-85 at p. 74.

[26] Freire, J and García-Allut, A (2000) —Socioeconomic and Biological Causes of Management Failures in European Artisan Fisheries: the Case of Galicia (NW Spain)‖, *Marine Policy*, Vol. 24, Issue 5, pp. 375-384 at p. 376. Bailey and Steele identify management failure as the crucial factor that led to the collapse of North Sea herring. See Bailey R. S. and Steele J. H., (1992) —North Sea Herring Fluctuations. In: Glantz Micheal H. (ed.) *Climate Variability, Climate Change and Fisheries*, Cambridge: Cambridge University Press, pp. 213-230 at pp 221- 222.

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species are termed vectors of introduction and these are primarily linked with shipment activities, marine aquaculture or ornamental species trade.[27] Other vectors include the international transport and sale of live marine bait, live seafood, and live organisms for research and education.[28]

The effects of human-induced changing of species composition are sometimes injurious to local communities and their magnitude may range from limitation or exclusion of single species or to destabilization of the whole system and species introduction has been identified as one of the main causes of species extinction. Even with a stable or decreasing rate of new introductions, it can be assumed that systems will become increasingly destabilized through direct and indirect interactions and diffuse competition as more and more interactions within the community become altered.[29]

v. Pollution

Pollution is the introduction by man, directly or indirectly, of substances or energy into the marine environment resulting in deleterious effects of such nature as to endanger human health, harm to living resources and ecosystems, hinder marine activities - including fishing -, and impair or interfere with amenities or other legitimate uses of the environment. Coastal and estuarine ecosystems have been, and still are, heavily influenced by the human species through pollution and habitat loss throughout the world. This coastal pollution and its impacts have resulted in a number of environmental issues including the enrichment of enclosed waters with organic matter leading to eutrophication, pollution by chemicals such as oil, and sedimentation due to land-based activities or sea level

[27]Oppenhiem, A. J. (2004) —The Plight of the Patagonian Toothfish: Lessons from the Volga Casel, *Brooklyn Journal of International Law*, Vol. 30, Issue 1, pp. 293-328 at pp. 302 and 305.
[28] Ibid.
[29]Stokke, O. S. and Vidas, D. (2004) —Regulating IUU Fishing or Combating IUU Operations?I, Paper Submitted to the IUU Workshop, Organisation for Economic Co-operation and Development, 19-20 April, 2004, pp. 1-31 at p. 10; Louka, E., (2006) *International Environmental Law: Fairness, Effectiveness, and World Order*, Cambridge: Cambridge University Press, p. 245; See also de Fontaubert, C. (2003) —Introduction: A Historical Perspective on Where We Are and How We Got There!, In; de Fontaubert and Lutchman, I. with Downes, D. and Deere, C. (eds.) *Achieving Sustainable Fisheries: Implementing the New International Regime*, Switzerland: International Union for Conservation of Nature and Natural Resources (IUCN) - the World Conservation Union (WCU), pp. 1-4 at p. 1.

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rise due to the global change.[30] Over 80% of all marine pollution originates from land-based sources which are primarily industrial, agricultural and urban. Pollution accompanies most kinds of human activities, including offshore oil and gas production and marine oil transportation.[31] Point and non-point source pollutions continue globally, resulting in the steady degradation of coastal and marine ecosystems.[32]

The ability to remotely detect and monitor oil spills at sea is becoming increasingly important due to the constant threat posed to marine wildlife and the ecosystem.[33] As the demand for oil based products increases, shipping routes will consequently become much busier and the likelihood of slicks occurring will also increase. If applied correctly, remote sensing can act as a beneficial monitoring tool. It can allow for early detection of slicks, provide size estimates, and help predict the movement of the slick and possibly the nature of the oil.[34] This information will be valuable in aiding clean-up operations, and will not only help save wildlife and maintain the balance of the local ecosystem, but will also provide damage assessment and help to identify the polluters.

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[30] Marine Biodiversity Wikki, "Environmental Risk Assessment of Marine Activities" retrieved from http://www.marbef.org/wiki/Environmental_risk_assessment_of_marine_activities [accessed on November 2013].

[31] Ibid.

[32] Robbe N. and T. Hengstermann (2006) "Remote Sensing Of Marine Oil Spills From Airborne Platforms Using Multi-Sensor Systems" WIT Transactions on Ecology and the Environment, Vol. 95, 347.

[33] Winegrad, G. W. (2003) —Sudden Death on the High Seas: Seabird Mortality in Longline Fisheries‖, *ALI-ABA Course of Study Materials No. SJ011*, pp. 1-8, at p. 1.

[34] Bache, S. J. (2002) Turtles, Tuna and Treaties: Strengthening the Links between International Fisheries Management and Marine Species Conservation‖, *Journal of Wildlife Law and Policy*, Vol. 5, No. 3, pp. 49-64 at p. 49. From 1992 to 2001, fishers discarded an average of 7 million tonnes of fish. See generally Kelleher, K. (2005) Discard in the World's Marine Fisheries: An Update‖, *FAO Technical Papers* No. 470, Rome: FAO, p. 17; Agardy, T. (2003), An Environmentalist's Perspective on Responsible Fisheries: the Need for Holistic Approaches‖ In: Sinclair M. and Valdimarsson, G. (eds.) *Responsible Fisheries in the Marine Ecosystem*, Oxon, FAO & CABI Publishing, pp. 65-85 at p. 74; Freire, J and García-Allut, A (2000) —Socioeconomic and Biological Causes of Management Failures in European Artisan Fisheries: the Case of Galicia (NW Spain)‖, *Marine Policy*, Vol. 24, Issue 5, pp. 375-384 at p. 376. Bailey and Steele identify management failure as the crucial factor that led to the collapse of North Sea herring. See Bailey R. S. and Steele J. H., (1992) North Sea Herring Fluctuations. In: Glantz Micheal H. (ed.) *Climate Variability, Climate Change and Fisheries*, Cambridge: Cambridge University Press, pp. 213-230 at pp 221- 222.

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3. NIGERIA AND THE MARINE ENVIRONMENT

Marine environment is one of earth's most precious and delicate resources and there is a growing awareness amongst nations of the world that drastic and sustainable measures need to be adopted and implemented to protect it from further deterioration. Nigeria is a maritime nation with a coastline of approximately 853km on its southern border and a population of over 120 million inhabitants, 20% of which inhabit the coastal zone.[35] The importance of the marine environment to Nigeria is underscored by the fact that about 90% of its international trade i.e. imports and exports are dependent on marine transport.[36] Nigeria has about 9 major ports which are for navigational and administrative purposes divided into 5 Navigational Districts namely: Port Harcourt, Warri, Lagos, Calabar and Onne navigational districts. Ship traffic into these ports excluding tankers is estimated at approximately 3,500 vessels per annum. Out of the total traffic, ports within the Lagos area account for 50%, Rivers ports 25% and Delta ports 15%.[37] Overall cargo throughout (excluding crude) is estimated at 22.23 million tones.[38] The total number of passengers that pass through the sea ports is estimated at 1500 per year. Nigeria being a major oil producing and exporting country records approximately 1,000 petroleum tanker vessels calling at her ports annually, with an average tanker size of about 95.000 GRT.[39]

All the vessels calling at these ports carry enormous amount of waste including bilge, sludge, garbage, sewage, chemical waste (toxic and non-toxic) and in the absence of Reception Facilities all the ship generated waste are discharged into the sea within the vicinity of the ports. Recent events including the oil spill resulting from collision of The Agulhas and The Asian Star, the Marina Bay rice pollution and Tank farm spillage at Tin Can Island of June 2002 together emphasis threats to marine environment. One must not forget the constant damage and threat to the marine environment posed by industries in Nigeria especially oil and gas industries in the Niger Delta.

The marine environment is polluted from two major sources i.e. from *ships, offshore installations and pipelines; and from land based* sources. Technically,

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[35] See http://www.paulusoro.com.ng/publications/portpollution.pdf [accessed 11/1/2013]
[36] See http://www.nigerianports.org/dynamicdata/HQStatistics.aspx?id=178[accessed on the 11/1/2013]
[37] Ibid.
[38] Ibid.
[39] Ibid.

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these sources of marine pollution can be divided into two broad categories: (1) point-source pollution i.e. oil and waste dumped by ships, offshore, pipelines, factories and sewage plants directly into the sea or watercourses; and (2) non-point-source pollution otherwise called polluted run-off i.e. discharge of sewage, agricultural and toxic industrial chemicals that seep underground, pollute underground water and finally gets deposited in these a through rivers and estuaries.

The activities associated with oil exploration in Nigeria have brought about major challenges to her coastal ecosystem. One of the many challenges is oil spillage, characterized by pipeline corrosion, sabotage, inadequate care in loading and offloading oil vessels etc. there is therefore the need to protect the marine environment from unnecessary threats because it serves as the resource base that support human life.[40]It is against this background that the Nigerian Environmental Policy acknowledged that in order to maintain and improve the quality of the unique environmental resource endowment and the physical characteristics of the coastal areas, Ecological Master Plans (EMP) must be prepared based on detailed baseline ecological data to guide the use of coastal areas for the diverse and often conflicting industrial and social needs of the nation so that continued viability of all aspects of the ecosystems will be secured.[41]To achieve this objective, it is the requirement that all applications for project development in the coastal and near shore areas must mandatorily be accompanied by Environmental Impact Assessments with strict adherence to public hearings before permission is given for such developments. Further, to ensure sustainability of marine environment, the policy set a standard of strategies for comprehensive long term national plans for marine resources management and conservation. Some of which are:[42]

a. study and highlight the vulnerable components of the marine and coastal ecosystems bearing in mind their limited stocks of living and non-living exploitable resources;

b. identify and map critical and sensitive habitats (Environmental Sensitivity Index maps) to enable project planners and developers to incorporate appropriate measures to minimize damage and disturbance to breeding, nesting and feeding areas of estuarine and coastal water species;

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[40]See paragraph 4(10) of the National Policy on Environment for Nigeria 1989 revised in 1998
[41] Ibid.
[42] Ibid.

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c. provide timely data and operational standards for project planning and implementation, especially for fishing, drilling, construction of offshore oil production platforms and loading terminals, dredging, pipe laying and seabed mining;

d. study the prevalent coastal and near shore geomorphologic processes and identify the land forms that are indicative of coastline changes over time especially with regard to coastal submergence/emergence, subsidence, sediment balance, coastal sand transport with depositional or erosive tendencies, sediment compaction and tidal and current erosion;

e. monitor the rate of coastline procreation or recession and establish coastal protection measures with a view to timely intervention to arrest irreversible negative changes;

f. establish measures to discourage and prevent or at best minimize point and non-point pollution of the entire coastline and near shore marine waters;

g. prepare Ecological Master Plans for the management and control of coastal and

near shore marine industrial and social development activities to minimize pollution and protect the resources;

h. encourage the recreational use of coastal and near shore marine water-fronts areas for the enhancement of tourism and;

i. discourage upstream water use that can negatively impact estuarine and coastal habitats, water quality and quantity and thus endanger marine life living and/or reproducing in such habitats.

In a bid to prevent, control and reduce the incidence of oil pollution, different regulatory institutions such as the Nigerian Port Authority (NPA) and Nigerian Maritime Administration and Safety Agency (NIMASA) have been put in place by the Federal Government of Nigeria to act in response to all matters dealing with maritime security, which include protection marine resources. However, the discussion in this paper is limited to the role of NIMASA in the protection of marine environment.

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4. HISTORY, OBJECTIVES AND FUNCTIONS OF THE NIGERIAN MARITIME ADMINISTRATION AND SAFETY AGENCY

The Nigerian Maritime Administration and Safety Agency (NIMASA), formerly the National Maritime Authority (NMA) is responsible for regulations related to Nigerian shipping, maritime labor and coastal waters. The Nigerian Maritime Administration and Safety Agency (NIMASA) is the apex regulatory and promotional maritime agency.[43] The Agency was created from the merger of National Maritime Authority and Joint Maritime Labour Industrial Council (former parastatals of the Federal Ministry of Transport) on the 1st August 2006.[44] The Mandate of the Agency is derived from the Nigerian Maritime Administration and safety Agency Act. The Agency is mandated as well to enforce the provisions of the Merchant Shipping Act and Coastal and Inland Shipping Act that are directly connected with the purpose of its creation.[45] The agency is saddled with the responsibility to promote the development of indigenous commercial shipping in international and coastal shipping trade; and to regulate and promote maritime safety, security, marine pollution and maritime labour.[46] This responsibility extends to all ships and crafts operating in the exclusive economic zone, territorial and inland seas, inland waterways and in the ports of the Federal Republic of Nigeria. However, the responsibility of the Agency does not extend to warship and military patrol ship. The coming into effects of this Act has automatically repealed the Nigerian Shipping Policy Act Cap. 279, L.F.N. 1990; Nigerian Maritime Labour Act 2003;Section 288 of the Merchant Shipping Act Cap. M11; and the Merchant Shipping (Delegation of Powers) Notice under section 395 of the Merchant Shipping Act, Cap. M11 except where there is contrary intention.[47]

The overall functions of the Agency are as stated in section 22of the Act. These are:

(a) pursue the development of shipping and regulate matters relating to merchant shipping and seafarers;

(b) administering the registration and licensing of ships;

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[43] See Nigeria Maritime Administration and Safety Agency Act No. 71 2007, section 1(1)and(2).
[44] Ibid.
[45] Ibid.
[46] Ibid.
[47] Ibid, section 63.

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(c) regulate and administer the certification of seafarers;

(d) establish maritime training and safety standards;

(e) regulate the safety of shipping as regards the construction of ships and navigation;

(f) provide search and rescue service;

(g) provide directions and ensure compliance with vessel security measures;

(h) carry out air and coastal surveillance;

(i) control and prevent marine pollution;

(j) provide direction on qualification, certification, employment and welfare of maritime labour;

(k) develop and implement policies and programmes which will facilitate the growth of local capacity in ownership, manning and construction of ships and other maritime infrastructure;

(l) enforce and administer the provisions of the Cabotage Act 2003;

(m) perform port and flag State duties;

(n) receive and remove wrecks;

(o) provide National Maritime Search and Rescue Service;

(p) provide Maritime Security; and

(q) establish the procedure for the implementation of conventions of the International Maritime Organization and the International Maritime Labour Organization and other international conventions to which the Federal Republic of Nigeria is a party on Maritime Safety and Security, Maritime Labour, Commercial Shipping and for the implementation codes, resolutions and circulars arising therefrom.

In addition to the above general functions, the Agency also performs specific functions. These specific functions are expressly contained in section 22(2) of the Act. They are:

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(a) inspect ships for the purposes of maritime safety, maritime security, maritime labour and prevention of maritime pollution;

(b) make enquiries as to shipwrecks or other casualties affecting ships, or as to charges of incompetence or misconduct on the part of seafarers in relation to such casualties;

(c) administer policy for the development of shipping in general;

(d) provide on request services to the maritime industry on a commercial basis;

(e) establish and manage maritime institutions for the training of officers of the Agency;

(f) generally to perform any other duty for ensuring maritime safety and security or do all matters incidental thereto;

(g) provide consultancy and management services relating to any of the matters referred to in this subsection; and

(h) perform any other prescribed functions relating to or incidental to any of the matters referred to in this subsection.

The Act has specifically listed the categories of activities considered to be prejudicial to the Nigeria' maritime domain in section 23(9). These are:

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

(b) any act of pollution;

(c) any unauthorised fishing activities;

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

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

(f) any act in contravention of the Coastal and Inland Shipping (Cabotage) Act, 2003; and

(g) any other activity not having a direct bearing on passage.

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A careful look at the objectives and functions of the agency show that the agency is conferred with so much responsibility to ensure and regulate the safety of the marine environment. In fact, its authority is not limited to the territorial sea of Nigeria alone. It covers both the inland seas and water ways where so much of oil pollutions are happening. Besides, paragraph (i) of section 22(1) also requires the agency to take all appropriate measures to control and prevent marine pollution. The implication of this provision is that NIMASA can work in collaboration with the National Oil Spillage Detection and Response Agency (NOSDRA) to combat marine pollution especially in the Niger Delta of Nigeria.

5. NIMASA EFFORTS TO PROTECT MARINE ENVIRONMENT

Cases of marine environment pollution in Nigeria's territorial waters have assumed alarming proportion owing to uncontrolled illegal activities of both foreign and local vessel, oil spills from oil companies, bad management of solid and liquid waste by waste disposal companies. Inclusive here are the human elements spurred by the proximity of some inhabitants to the river shorelines or banks; high incidence of piracy on waters, and ineffective policing of the waterways. In view of this, NIMASA has taken series of efforts to ensure proper management and control of marine environment. The notable ones are discussed below:

i. Establishment of Marine Environment Management Department

The ugly trends of marine pollution and insecurity have not gone unnoticed. Several foreign ships on the nation's territorial waters are doing unlawful business, polluting the nation's territorial waters with waste from their ships and badly draining fish population. For instance, on December 20, 2011, a Bonga oil facility managed by the Anglo-Dutch oil giant, Shell, had a spillage of over 40,000 barrels of oil, a massive one that did not only affect the marine lives in the affected communities but birds and vegetation.[48] The 2011 Bonga incidence was

[48]For more detail see the Nigerian Tycoon, "NIMASA: Managing Marine Environment Pollution in Nigeria" retrieved fromhttp://thetycoonmagazine.com/morenews.php?id=14 [last visited 22/06/13].

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likened to that of the Mobil spill, which devastated the Nigerian territorial waters in 1998.[49]

In a bid to control the marine environment efficiently, the Marine Environment Management Department (MEM) was established. The Marine Environment Management Department is statutorily responsible for ensuring a clean marine environment through the implementation of all relevant IMO Conventions. This responsibility is expected to achieve a friendly marine environment free of pollution that will enable shipping activities to be conducted in a conducive and healthy setting. It is also its task to prevent the extinction of marine lives to ensure that the food chain remains unaltered and human existence assured. The Department draws its statutory powers from Part XXIII Section 335 of the Merchant Shipping Act 2007 and Sections 22(2); 23 (9) (b) of the NIMASA Act, 2007.The functions of the Marine Environment Management Department are generally derived from the IMO Conventions relating to the protection of the marine environment against pollution and any other related Conventions adopted by the IMO from time to time. Broadly, the Department implements and enforces compliance to the Conventions.[50]

So, far, MEM has made some progress, which in future may translate into achievements in the subsequent areas: The monitoring of usage of port reception facilities. It's monitoring of these facilities and usage by vessels calling in the nation's port show that there is an improved wakefulness on the existing facilities. Therefore, the vessels calling at the ports are now making proper use of the facilities since they have witnessed that the waste can be carried away without causing undue delay. Another area that has received progress is the monitoring of ships scrapping operation.[51] MEM monitored and supervised the scrapping and evacuation of five identified wrecks within the Lagos Coastal Waters to ensure that there was no pollution of the environment and total removal of the hull from the water. This commendable step was to ensure compliance with Nairobi International Convention on the removal of wrecks, 2007 and Hong Kong International Convention for the safety and environmentally sound recycling of ships, 2009. To augment operation its operation, MEM has begun a systematic boat watch and monitoring exercise of the waterways under a joint operation/enforcement team from the operation departments and shipping development. This is to ensure compliance with provisions of the relevant IMO

[49] Ibid.
[50] See http://www.nimasa.gov.ng
[51] Ibid.

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and International Labour Organisation (ILO) Conventions as well as Cabotage Act.

However, there are some challenges obstructing effective performances of MEM in the implementation of its responsibilities. They include: inadequate monitoring and response equipment for the effective discharge of duties such as patrol boats for monitoring of the territorial waters to ensure compliance and for quick response to pollution alerts, as well as helicopter for aerial surveillance. Other notable challenges are: lack of basic mandatory training for MEM officers for effective discharge of their duties; inadequate operational vehicles for the department and the zonal offices to ensure effective implementation of statutory functions.

ii. Making of Rules and Regulations

In a bid to police the marine environment effectively, NIMASA has introduced 12 regulations for the control of marine pollution in the country. These regulations cover sewage; garbage dumps; ship registration dangerous/obnoxious waste; anti-fouling system; ballast water management; liability and compensation; sea petroleum levy; among others. The introduction of these regulations was made possible because Nigeria has ratified and domesticated some international conventions such as the international convention for the prevention of pollution from ship (MARPOL 73/78).

An insight into a number of the regulations will assist to sensitize marine users on what awaits them. For instance, the Anti-fouling system regulation 2012 states that "persons in charge of shipyards or ship repair facilities are required to ensure that any waste from the application or removal of any anti-fouling system specified in the first schedule of the regulation is collected, handled, treated and disposed of in a safe and environmentally sound manner to protect human health and the environment." commenting on the significance of these regulations, the Director-General of NIMASA captured the effort of the agency in the following words, "we have developed 12 regulations on marine environment pollutions mainly arising from ships. These regulations have just been gazetted by the Federal Ministry of Justice. We have also commenced strict enforcement of the

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use of port waste reception facilities which has led to the reasonable reduction in the incidence of pollution from garbage."[52]

The power to make regulations for the purpose of regulating marine pollution is expressly covered under section 44 of the Act. The section is an open one. It gives the Agency the power to make regulation for the purpose of controlling marine pollution and prescribed such sum to be paid as penalty for violating any regulation so made. The best for the Agency to do in this case is to prescribe huge sum as penalty for polluting marine environment and includes provisions for payment of compensation as well. Where the amount is on the high side, ships operating within the Nigerian territorial waters will be compelled to observe precautionary measures because one of the major challenges to environmental law enforcement in Nigeria is the prescription of ridiculous amount as penalty for polluting the environment.

iii. Introduction of Sea Protection Levy

The agency in pursuit of its mandate further set levies payable by ship using Nigerian waters for the protection of marine environment in line with global best practices of the polluters pay principle. This levy must be paid by oil companies with loading and receiving buoys, oil rigs and pipe lines. The agency put the rate payable per annum for offshore oil installations at N15 million, saying oil wells for exploration would attract N10million per annum from first day of April every year.[53] It added that pipelines would attract N1, 500 per cubic metre of pipe line volume from high water mark to termination point offshore. This is in line with the International Maritime Organization's (IMO) Marine Environment Management Regulations 52 and 53 on sea Protection Levy and Offshore Waste Reception Facilities. The levy is to be paid by all commercial operating vessels of 100 gross tonnage and above operating on Nigerian waters. By this requirement, Nigerian flagged vessels between 100 and 1,000 gross tonnage would pay N500 per tonnage, vessels between 1,001 and 10,000 gross tonnage, (N350 per gross tonnage), vessels between 10,001and 100,000 gross tonnage (N300 per gross tonnage) and vessels from 100,000 and above N250 per gross tonnage. Also

[52] For more detail see the Nigerian Tycoon, "NIMASA: Managing Marine Environment Pollution in Nigeria" retrieved fromhttp://thetycoonmagazine.com/morenews.php?id=14 [last visited 22/06/13].

[53] http://www.nimasa.gov.ng/

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foreign flagged vessels between 100 and 1,000 gross tonnage are to pay $0.1per tonnage, vessels between 1,001 and 10,000 gross tonnage, are to pay $0.15per gross tonnage, vessels between 10,001and 100,000 gross tonnage would pay $0.3 per gross tonnage and vessels from 100,000 and above $0.3 per gross tonnage. The charges is meant to meet clean-up costs which cannot be attributed to a known polluter.

iv. Collaboration With Other Stakeholders

NIMASA has also gone into collaboration with some agencies and stakeholders to arrest or curtail the menace of marine environment pollution. The relationships are with: the Nigerian Liquefied Natural Gas (NLNG) and the Nigerian Port Authority (NPA) on the establishment of offshore reception facilities at NLNG terminals; NIMET and NIMASA collaboration on the establishment of observatory along Nigeria coastline; and collaboration with NOSDRA to create awareness on environment pollution. The essence is to work together to ensure marine safety and protection.

6. CHALLENGES

There are numerous challenges affecting NIMASA in the performance of its duties. However, only two challenges will be discussed in this paper. They are: inadequate funding and the issue of fines and punishment prescribed under the law.

i. Inadequate Funding

Regulatory institutions in developing countries usually lack sufficient funding and technical expertise. For instance, Nigerian Maritime and Administration Safety Agency (NIMASA), financially depend largely on the grant and allocation from the Federal Government to be able to execute their objectives. It is not unusual for an agency to rely on the government for funds but where adequate funds are not provided for the implementation of statutory duties, it may hinder the efficiency of an agency. By this, the agency may be opened to corruptions with a view to source assistance from outsiders or international corporations who are the parent company of most corporations in Nigeria. This is possible because NIMASA is given the right to receive grants and gifts as source of its revenue from the

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outsiders.[54] Thus, adequate and sufficient funding is fundamental to the success of an institution. Where this is lacking or inadequate, the agency will not be able to meet or perform up to its expectation. On this note, the Director-General of the Nigerian Maritime Administration and Safety Agency, Ziakede Patrick Akpobolokemi lamented on this when he said:[55]

> It is common knowledge that the agency's operations require that its officers be able to move from one place to another within the maritime country's domain. Over the years, the agency lacked the necessary platforms (vessels) to enable it effectively police the Nigerian waters. This has necessitated the compelling need for the agency to enter into a PPP arrangement with a private service provider to provide platforms for the use of the agency's staff.

ii. Fine and Punishment

The sanctions by means of fines or imprisonment or both stipulated under various laws in Nigeria are ridiculously inadequate. For instance, under the Nigeria Maritime Administration Safety Agency Act, a fine of N1, 000,000·00 (7 thousand dollars) is prescribed for failure to comply with the provisions of laws, rules and regulation prescribed by the agency. This prescription may not commensurate with what the law seek to avert. Though, this is a little bit higher than that prescribed under the Nigerian Port Authority Act (NPA) but when compared with the situations in other countries, this amount is too low to control pollution. For instance, this is not comparable to what is imposed under some foreign laws like Clean Air Act[56] which impose a fine of $ 250,000 (two hundred and fifty thousand dollars) per day for individual violators of the law and $ 500,000 per day for corporate violators.[57] Therefore, in view of the prevailing economic realities and with a view to ensure maritime safety in Nigeria, it is exceptionally required for our anti-pollution laws to be reviewed upward.

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[54] World Bank, "Defining an Environmental Development Strategy for the Niger Delta" quoted in Amnesty International, "Nigeria: Petroleum, Pollution and Poverty in the Niger Delta" Amnesty International Publication, United Kingdom, 2009, 112

[55] The Guardian "Nigeria Lacks Capacity to Enforce Security on Water Ways, says NIMASA" retrieved from http://guardiannewsngr.com/index.php?option=com_content&id=93327:nigeria-lacks-capacity-to-enforce-security-on-waterways-says-nimasa [visited on 22/06/13]

[56] Clean Air Act, 1990 applicable in the United States of American.

[57] Ibid.

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7. CONCLUSION

Coastal and marine environments play numerous diverse roles in relation to public health, food security, economic and social benefits, cultural values and traditional livelihoods. The state of these environments is mirrored by activities carried out on land. These activities varying from industrial and agricultural production to daily domestic routines disturb the health of these ecosystems and of the people that depend on them. Although economic valuation of ecosystems needs to be treated with caution, it is generally accepted that the goods and services delivered by nature are worth trillions of dollars. The state of Nigerian coastal and marine environments is mirrored by the activities carried out on land. Clearing vegetation, mining, and building roads, homes and hotels can destroy habitats and fill rivers and estuaries with mud and silt. Everyday living produces solid waste and sewage that poison groundwater, rivers and lakes, and eventually oceans. Industrial and agricultural production causes pollution of rivers and coastal waters, which can result in algal blooms and contaminated seafood products. Clearly, land-based activities generate harmful impacts and together affect the health of the invaluable salt and brackish water ecosystems and of the people who depend on them as a source of wealth, beauty and recreation. Therefore, there is the need to safeguard our marine environment and this can only be possible if NIMASA and other similar agencies are adequately funded to enable them execute their statutory functions. Also, stringent penalty should be prescribed for the violators because polluters tend to follow and abide by the rules where the punishment prescribed is on the high side.

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