

LEGAL FRAMEWORK GOVERNING OFFSHORE
ACTIVITIES AND ROLE AND RESPONSIBILITIES
OF STATES IN NIGERIA: A CASE STUDY

By

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PICTURE SHOWING AN OFFSHORE RIG



LEGAL FRAMEWORK IN VIEW OF NIGERIA AND THE INTERNATIONAL COMMUNITY'S COMMITMENT TOWARDS A BLUE ECONOMY FOR AFRICA

Blue Economy...

The infographic is set against a light blue background with a stylized sun and a globe in the upper left. It features several icons: a cargo ship, three diverse people, wind turbines, a solar panel, a magnifying glass over a boat, a plate of food, a coral reef, a palm tree on an island, and a plastic bottle with a red slash through it. Each icon is accompanied by a descriptive text block.

- uses smart shipping to lessen the impacts on the environment** (Illustrated with a cargo ship and icons for a laptop, a bird, and a shield)
- is inclusive and improves the lives of all** (Illustrated with three diverse people)
- is based on sustainable fisheries** (Illustrated with three fish)
- creates jobs, reduces poverty and ends hunger** (Illustrated with a plate of food)
- conserves marine life and oceans** (Illustrated with a coral reef and a shark)
- protects coastal communities from the impacts of climate change** (Illustrated with a palm tree on an island)
- harnesses renewable energy** (Illustrated with wind turbines and a solar panel)
- takes action against illegal fishing** (Illustrated with a magnifying glass over a boat)
- tackles marine litter and oceans pollution** (Illustrated with a plastic bottle and a red slash)



INTRODUCTION

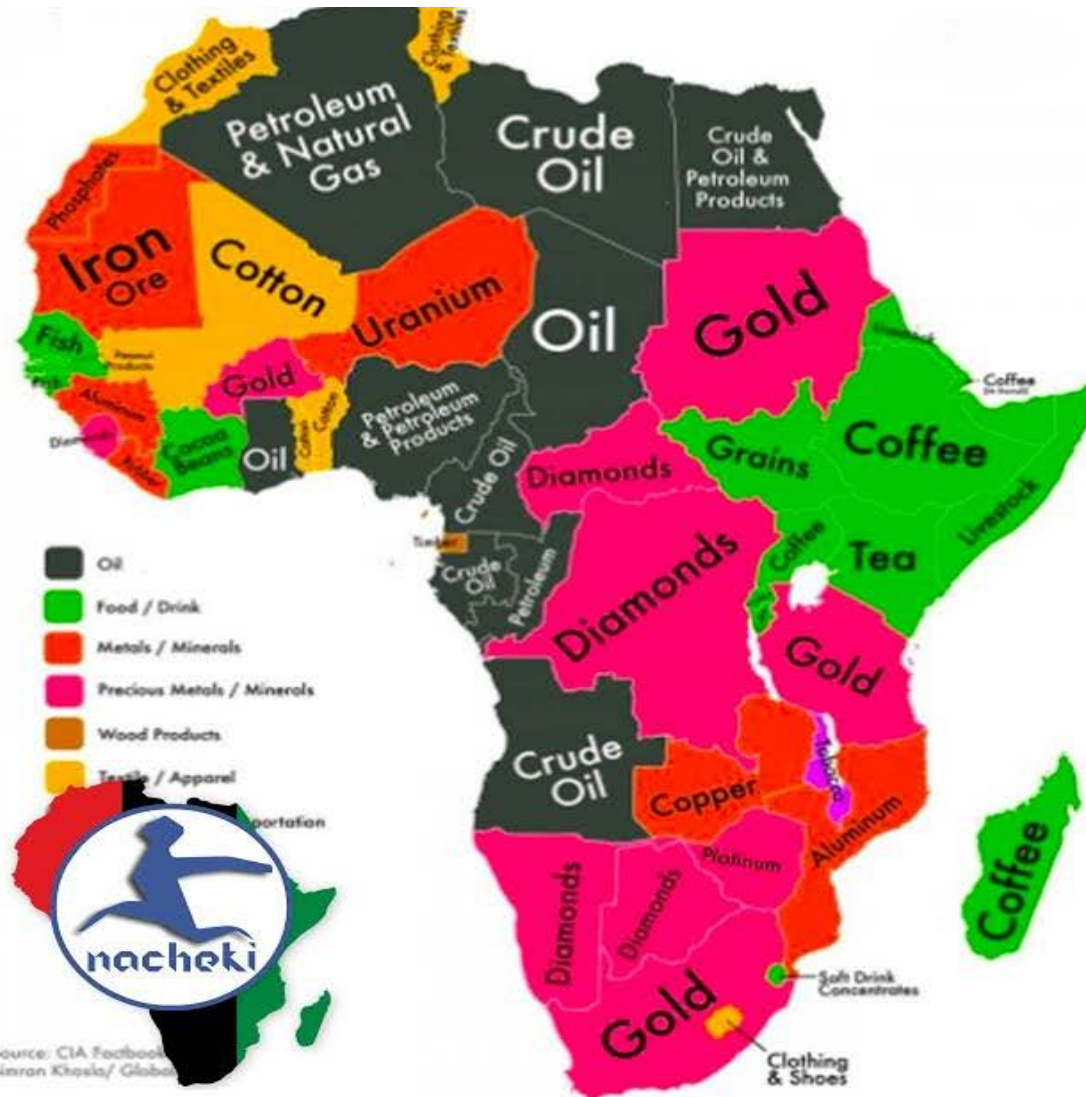


❖ Africa's potentials and contributions to a sustainable future for the entire planet is not in doubt



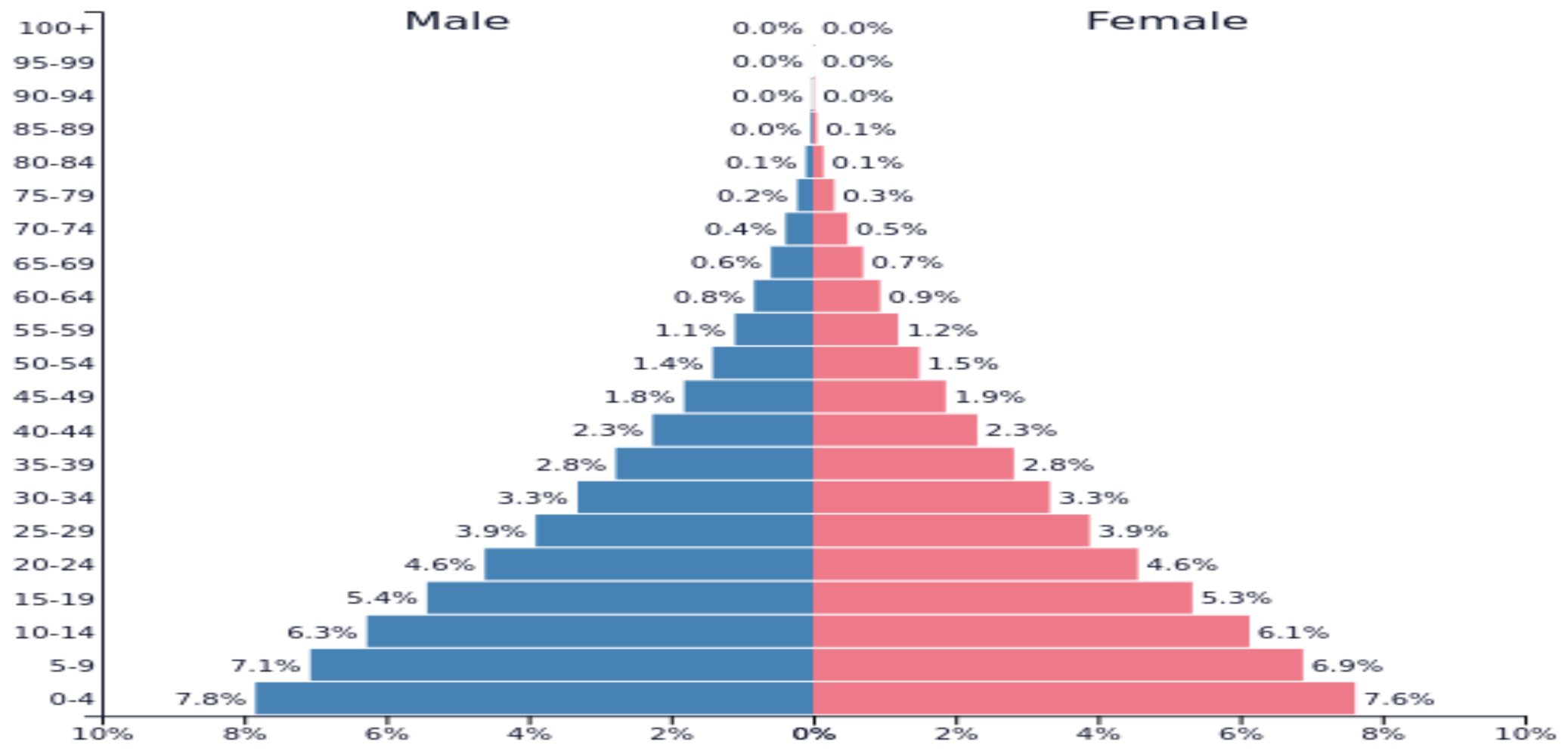
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AFRICA IS BLESSED WITH VAST NATURAL RESOURCES





PICTURE SHOWING 2021 POPULATION PYRAMID OF SUB-SAHARAN AFRICA



PopulationPyramid.net

Sub-Saharan Africa - 2021
Population: **1,122,851,207**



Federal Ministry Of Justice

PICTURE SHOWING GOLD MINERAL RESERVES IN AFRICA

BATEMAN Mines & Mineral Resources of Africa **MINING**

Process plants to convert natural resources into marketable products

<p>Comminution</p> <ul style="list-style-type: none"> Full scale plants Ball mills Grinding mills Crusher plants Ball & roller Crusher & roller Ball mill & roller 	<p>Technologies</p> <ul style="list-style-type: none"> Mobile crushing plants Grinding plants Crusher plants Ball mill & roller Crusher & roller Ball mill & roller 	<p>Mineral Processing</p> <ul style="list-style-type: none"> AC & DC Electrolysis Flotation Leaching Washing Washing & drying Washing & drying Washing & drying Washing & drying 	<p>Final Products</p> <ul style="list-style-type: none"> Gold, Silver, Lead, Zinc Flotation Washing & drying Washing & drying Washing & drying
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- process plants that work





PICTURE SHOWING FOSSIL FUEL IN AFRICA



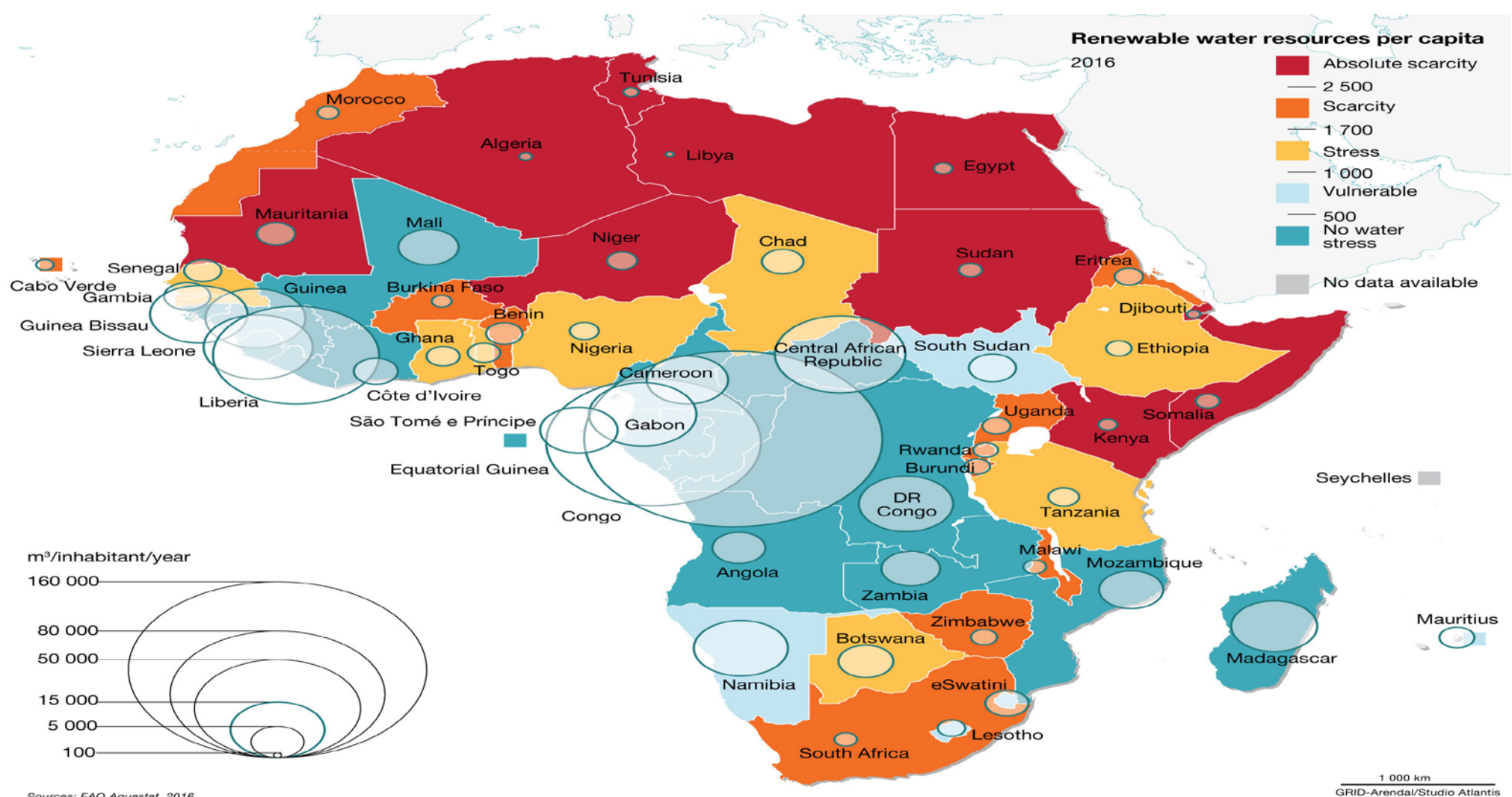


PICTURE SHOWING MAP OF AFRICAN COUNTRIES BY ARABLE LAND





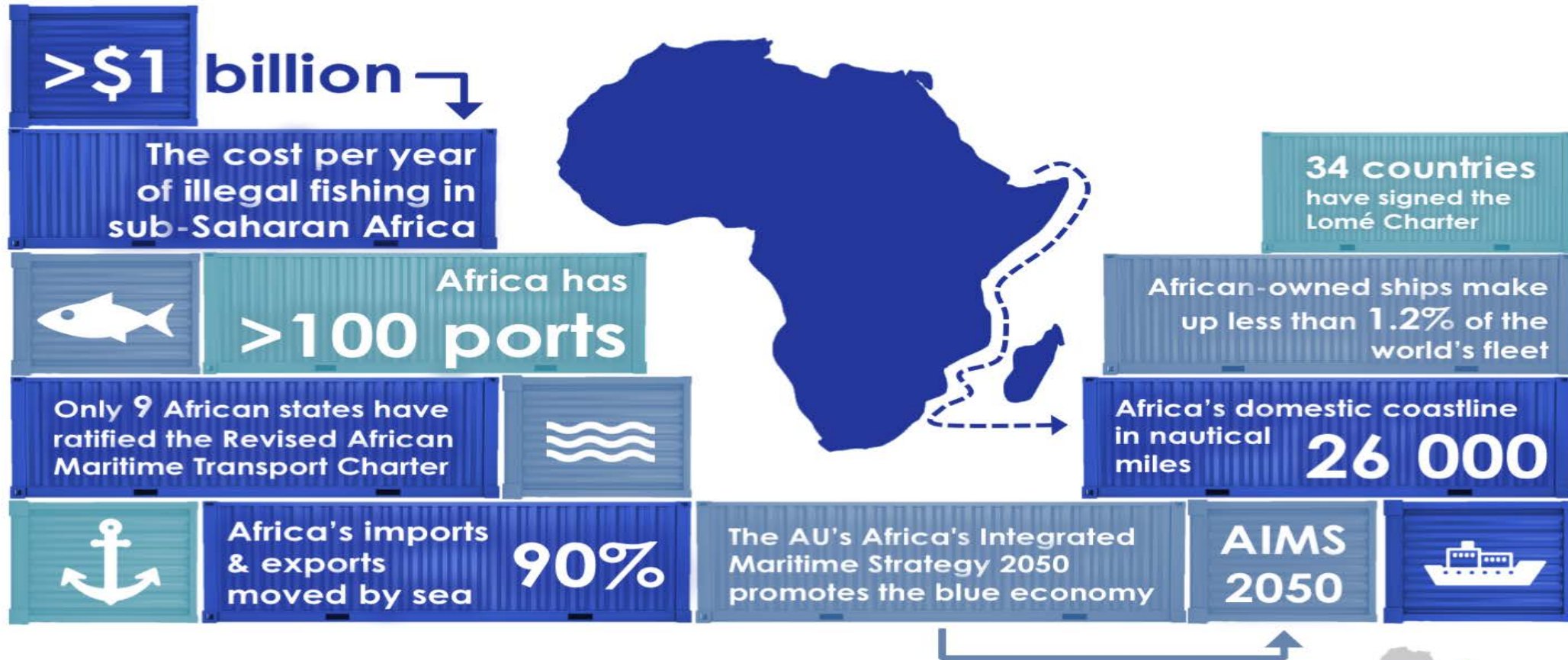
PICTURE SHOWING MAP OF AFRICA'S TOTAL RENEWABLE WATER RESOURCES



Sources: FAO Aqostat, 2016.

RELEVANCE OF AFRICA'S BLUE ECONOMY

Africa's blue economy





AFRICA'S BLUE ECONOMY POTENTIALS AND CHALLENGES (CONT'D)

- ❖ The “Blue Economy” is used to describe the sustainable use and conservation of aquatic resources in both marine and freshwater environments.
- ❖ It comprises activities that exploit aquatic resources or use aquatic environments, once they are done in an integrated, fair and sustainable manner.
- ❖ These activities help to improve the health of aquatic ecosystems by establishing protective and restorative measures.



AFRICA'S BLUE ECONOMY POTENTIALS AND CHALLENGES (CONT'D)

- ❖ It is estimated that the Blue Economy could contribute up to \$1.5Trillion to global economy if properly managed, and Africa is key to unlocking this potential in view of its vast oceans and seas.
- ❖ The oceans and seas which African nations lay claim to are over three times its land mass with expansive economic potentials from fishing to oil and gas, and to tourism



PICTURE SHOWING AFRICAN LEADERS EXPRESSING COMMITMENT TO BLE ECONOMY



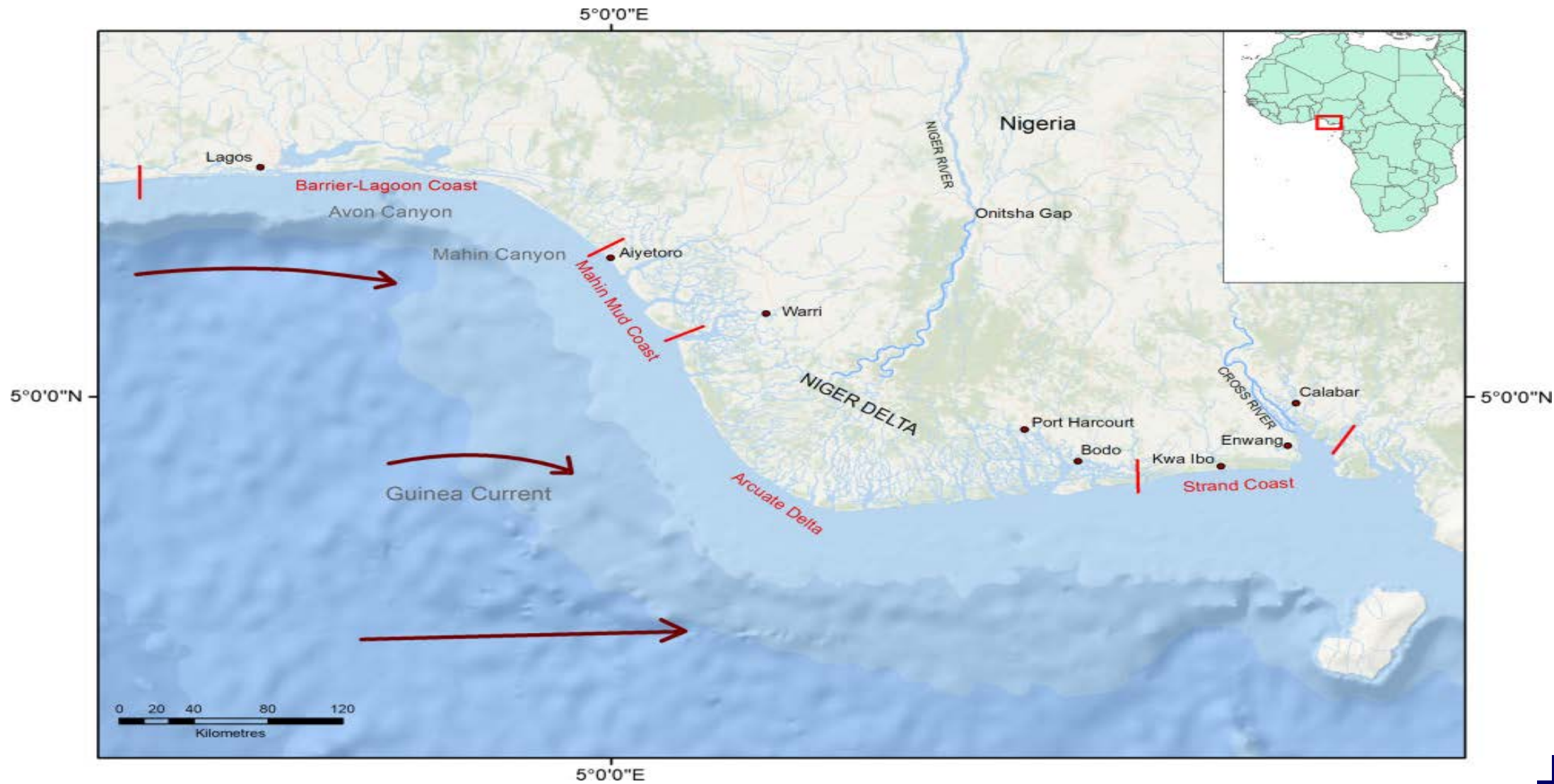


AFRICA'S BLUE ECONOMY POTENTIALS AND CHALLENGES (CONT'D)

- ❖ A total of 38 out of the African Union's 55 member states are coastal or island states, while 64% of the African continent is covered by a network of freshwater resources.
- ❖ These aquatic resources represent tremendous potentials for blue food, nutrition and food security, ecosystem services, employment and wealth creation and innovation.



MAP SHOWING NIGERIA'S COASTAL ENVIRONMENTS





AFRICA'S BLUE ECONOMY POTENTIALS AND CHALLENGES (CONT'D)

- ❖ There are challenges to the realization of the potentials from Nigeria's coastal environment.
- ❖ A paucity of data and evidenced-based decision making, weak institutional frameworks, and limited technical and technological capacity has led to the under-development of knowledge-based sectors of the blue economy.



NIGERIA'S SUSTAINABLE EXPLOITATION OF ITS OCEAN RESOURCES UNDER INTERNATIONAL LAW



2021
2030

United Nations Decade
of Ocean Science
for Sustainable Development



SEVEN EXPECTED OUTCOMES OF THE UN DECADE OF OCEAN SCIENCE FOR SUSTAINABLE DEVELOPMENT

- ❖ The ability to identify sources of pollution and reduce or remove them.
- ❖ To help establish a healthy and resilient ocean where marine ecosystems are understood, as well as protected and restored.
- ❖ To achieve a productive ocean which can respond to changing ocean conditions.
- ❖ To achieve a predicted ocean where the society understands and can respond to changing ocean conditions.
- ❖ To have an accessible ocean with open and equitable access to data and information.
- ❖ To create an inspiring and engaging ocean where society understands and values the ocean in relation to human wellbeing and sustainable development.

PICTURE SHOWING ILLEGAL FISHING ACTIVITIES IN WEST AFRICA





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PICTURE SHOWING CRUDE OIL THEFT ACTIVITIES IN NIGERIA



GRAPHICAL DETAILS ON HYDROCARBON CRIMES IN NIGERIA

CRUDE THEFT, MASSIVE OIL LOSSES: GOVERNMENT & OPERATORS' NIGHTMARE

Trajectory of Average Oil losses to Crude Theft and Others:



About 93% of oil output worth \$3.2bn lost to crude theft between Jan. 2021 and Feb. 2022; \$1bn or N434bn lost in Q1 2022.

Of about 141m/b fiscalized production in Q1 2022, 9m/bil lost to crude oil theft at flow stations; only 132m/b was received at terminals.

In 2022 so far, production struggled at 1.2m in Jan, 1.2m in Feb, Mar and Apr, 1.4m in May and 1.15m bpd in Jun.

Only 58% of the Technical Allowable Rate (TAR) achieved in 2021.

Total production in H1 2020 stood at 302.4mbbls; 248.6mbbls in H1 2021 and 228.816mbbls, representing 11.29% change between 2021 and 2022.

With the drop from the 302.4mbbls in H1 2020 to 228.816mbbls in H1 2022, total 82mbls oil production lost between 2020 and 2022.

Of the 1.772mbpd OPEC production quota in June, only 1.158mbpd was produced.

Daily under-performance pegged against OPEC quota yielded a whopping 614,080bpd or 19.034mbls deficit for June 2022 alone.

Against \$110/b oil price in June, Nigeria lost about \$2,093,740,000 to its inability to increase the country's production level.

RETURN OF DARK DAYS: Some Operators now embracing manual evacuation of crude to export terminals.

DANGERS: Continuous Drain on national revenue, increased IOC divestment, declining interest in investment in Exploration & Production; environmental degradation, damper on PIA, increased under-development, etc.

ACTION: Designation of oil theft as matter of urgent national security, emergency; Subject issue to a forensic and independent judicial inquiry; Extraordinary collaboration between Govt, operators & host communities.



NIGERIA'S SUSTAINABLE EXPLOITATION OF ITS OCEAN RESOURCES UNDER INTERNATIONAL LAW (CONTD)



- ❖ Chatham House put Nigeria's Hydrocarbon crime figures at between \$3 billion to \$8 billion, while the Nigerian Extractive Industries Transparency Initiative (NEITI) puts the 2020 figure at \$4.19 billion



PICTURE SHOWING PRESIDENT MUHAMMADU BUHARI ASSENTING TO THE PROCEEDS OF CRIME (RECOVERY AND MANAGEMENT) ACT 2022



"Nigeria's production in August 2022 was 800,000 bpd on the average due to the activities of criminals and saboteurs..."

PRESIDENT MUHAMMADU BUHARI GCFR



UNCLOS AND THE EXPLOITATION OF NIGERIA'S RESOURCES

- ❖ Upon gaining Independence in 1960, Nigeria enacted the Nigerian Territorial Waters Act which has been amended twice, in 1971 and 1998.
- ❖ The Act defines the limits of Nigeria's territorial waters.
- ❖ This is in line with Article 3 of the United Nations Convention on the Law of the Sea which provides that *"every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention."*



LEGAL REGIME OF NIGERIA'S FEDERAL SYSTEM OF GOVERNANCE



- ❖ Nigeria operates a Federal system of governance consisting of the Federal Government, State Governments and Local Governments.
- ❖ The Constitution of the Federal Republic of Nigeria clearly assigns powers, roles and responsibilities to these federating components.
- ❖ The exclusive responsibilities of the Federal Government of Nigeria are broadly in accordance with standard international practice.



UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)

- ❖ The UN Convention on the Law of the Sea (UNCLOS) which was adopted in 1982 provides the international maritime legal framework.
- ❖ Nigeria signed UNCLOS on 10 December 1982 and ratified the treaty on 14 August 1986.
- ❖ Nigeria as a coastal state, is entitled to 12 nautical miles, territorial Sea (Article 3), a contiguous zone of 24 nautical miles (Article 33), an Exclusive Economic Zone (EEZ) up to 200 nautical miles from the baselines of where the territorial sea is measured (Article 57).



PICTURE SHOWING MAP OF NIGERIA'S MARITIME ENVIRONMENT





UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)



- ❖ *“Article 145 UNCLLOS provides that necessary measures shall be taken in accordance with the Convention, with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities”.*



PICTURE SHOWING STAGGERING POLLUTION INCIDENCE IN NIGERIA



UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)

- ❖ Crude oil has continued to ooze from dormant wellheads and active pipelines, leaving the 386-square mile kingdom's wetlands shimmering with a greasy rainbow sheen, its once-lush mangroves coated in crude, well-water smelling of benzene and farmlands charred and barren.



Shell



Federal Ministry Of Justice

PICTURE SHOWING LAUNCHING OF OGONI CLEAN UP INITIATIVE IN 2016



RIVERS STATE

PRESIDENTIAL LAUNCH OF THE OGONI CLEAN UP EXERCISE



UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)

❖ Government Established the Hydrocarbon Pollution Remediation Project (HYPREP) aimed at:

- ✓ Determine the scope, means and modalities of remediation of soil and ground water contamination in impacted communities as may be recommended by HYPREP Governing Council and remedy them.
- ✓ Enhance local capacity for better environmental management and promote awareness of sound environmental management as well as ensure livelihoods and sustainable development.
- ✓ Ensure security and promote peace building efforts in impacted communities.
- ✓ Strengthen governance, transparency and accountability in the region.



LAWS, POLICIES, REGULATIONS AND STANDARDS FOR SAFEGUARDING NIGERIA'S ENVIRONMENT FROM OIL POLLUTION

- ❖ Petroleum Industry Act 2021
- ❖ Petroleum Act, 1969
- ❖ Oil in Navigable Waters Act No 34 of 1968
- ❖ Petroleum (Drilling and Production) (Amendment) Regulation 1996
- ❖ Endangered Species Decree Cap 108 LFN 1990.
- ❖ Federal Environmental protection Agency Act Cap 131 LFN 1990.
- ❖ Harmful Waste Cap 165 LFN 1990.
- ❖ International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971
- ❖ Convention on the Prevention of Marine pollution Damage, 1972
- ❖ African Convention on the Conservation of Nature and Natural Resources, 1968
- ❖ International Convention on the Establishment of an International Fund for the Compensation for Oil Pollution Damage, 1971
- ❖ Oil Pollution Act (OPC) 1990
- ❖ Environmental Guidelines and Standards for the Petroleum Industry in Nigeria issued by the Ministry of Petroleum Resources 1991
- ❖ National Environmental Protection Management of Solid and Hazardous Waste Regulation 1991 (FEPA)
- ❖ Establishment of the Federal Environmental Protection Agency (FEPA)



UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)



- ❖ NOSDRA has the statutory responsibility for preparedness, detection and response to all oil spillages in Nigeria.
- ❖ Affected States in Nigeria are at liberty to take advantage of these legal and regulatory frameworks as well as the respective federal government institutions to address issues of oil spillages in their area.



UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)



- ❖ The Nigerian judiciary also plays a pivotal role with regards to addressing issues of oil spillages in Nigeria.
- ❖ Only last year, Shell Petroleum Development Company informed the Federal High Court that it would pay N45 Billion Judgment Debt awarded against it over spillages that occurred in 1970.



UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)

- ❖ States in Nigeria also have an obligation to protect the environment and conserve natural resources and wild life.
- ❖ Section 20 of the Constitution provides that the Nigerian State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of the Country.



UNCLOS AND THE EXPLOITATION OF NIGERIA'S RESOURCES (CONTD)



National Environmental Standards and
Regulations Enforcement Agency
(NESREA)

- ❖ Section 7 of the NESREA Act provides that the Agency shall enforce compliance with laws, guidelines, policies and standards on environmental matters.
- ❖ States are enjoined to concrete steps towards the preservation and protection of environment. Particularly endangered species living in Nigeria's coastal waters



PICTURE SHOWING ENDANGERED SPECIES LIVING IN COASTAL WATERS





UNCLOS AND THE EXPLOITATION OF NIGERA'S RESOURCES (CONTD)

- ❖ The continued uncontrolled consumption of animals in the seas and oceans surrounding States must be stopped.
- ❖ The State Governments have a responsibility to sustainably control the consumption of wild life and other species within their domain, in line with UNCLOS and international best practices.
- ❖ There is a need for our International development partners to do more with respect to improved standard of living and job creation, as a means of encouraging the poor in society to sustainable exploit the resources in their area.



CONCLUSION

- ❖ Nigeria has embarked on a diversification agenda and is determined to move away from a solely oil-dependent economy towards a more sustainable and knowledge based economy.
- ❖ The 'Blue Economy' is driving cooperative approaches to tackle insecurity through 'the deep blue project' in the Gulf of Guinea, initiatives to enhance maritime transportation and the exploration of fisheries.
- ❖ Marine fishing in international waters could present a sustainable way to meet this demand.



CONCLUSION (CONTD)

- ❖ Nationally there is a demand gap for fisheries in Nigeria and marine fishing in international waters could present a sustainable way to meet this demand.
- ❖ The necessary emphasis on maritime security is crucial because of the enabling environment for such investment and development.



CONCLUSION (CONTD)

- ❖ Nigeria therefore pushes for greater collaboration as key to unlocking a “a healthy, safe and prosperous African maritime domain”. The security of the Nigerian coast is vital to the success of this collaborative strategy.

