

Sustainable Agriculture in Nigeria: A Review of Some Relevant Legal Framework and Policy

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Abstract

Nigeria has not been able to meet up with the Millennium Development Goals especially the eradication of hunger and poverty. Current trend points to continued human population growth and higher levels of consumption as the global economy expands. Food is and has always been one of the most important issues relevant to life, and consequently development. A man's belly must be full before he can indulge in the luxury of worrying about his political rights and freedom, hence, the need for Sustainable Agriculture. Over the years there has been land reforms and several policies on Agriculture but there has not been a comprehensive legal framework that ensures Sustainable Agriculture. This paper suggests that Nigeria needs to re-organise and double its sustainable development agenda to make it function in accordance with principles of environmental sustainability.

Keywords: Sustainable, Agriculture, Legal, Framework

1. Introduction

Agriculture is of great importance to the development of the country's economy. It is a way out to boost the economy and at the same time provide food and security for the growing population. Agriculture meets a major human needs and all other life support systems. The

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¹ National Centre for Agricultural Mechanization Act 1990 Cap N13 LFN 2004

National Centre for Agricultural Mechanization Act,¹ which was enacted to accelerate agricultural mechanization and increase the quality and quantity of agricultural products, does not meet the present day sustainable agricultural practices. The importance of agriculture in any nation's economy cannot be overemphasized. For example in Canada, agriculture contributes about 8% of the country's Gross Domestic Product, 1.1% in the United States of America, 13% in China, 2.6% in Australia, 9% in South Africa, 2.5% in Israel, 12% in Australia, 9% in Argentina and 13.5% in Egypt.² In terms of contribution, the sector accounted for 22.35 percent of overall GDP in real terms in first quarter of 2021, higher than the contribution in the first quarter of 2020 but lower than the fourth quarter of 2020, which stood at 21.96% and 26.95% respectively.³ In Canada, agriculture provides one in eight jobs, employing 2.1 million people and accounting for 8% of the total work force; 2.5% in Brazil; 32% in Egypt; 3.7% in Israel and 70% in Nigeria.⁴ The above statistics underline the importance of agriculture in Nigeria and to Nigerians. Majority of Nigerians depend on agriculture for food, employment and survival. With a population of more than 204 million, the largest in Africa – and a fast-growing economy, agriculture remains the mainstay of the economy in Nigeria. The agricultural sector provides a livelihood for about 90% of the rural population in Nigeria.⁵ This will stress the capacity of agriculture to meet food needs without further sacrificing the environmental integrity of local landscapes and global environment. Agriculture continues to play its role as the backbone of the Nigerian economy despite that its contribution to Gross Domestic Product has not been stable.

Agriculture was the centerpiece of Nigeria's economy in the 1960s and early 1970s. Apart from providing food for the teeming population and raw materials for industry, employment for the poverty-stricken masses and the derivation of revenue from exports, agriculture became a major source of investment with high-income yields for local and foreign entrepreneurs. With 68 million hectares of arable land, fresh water resources of about 12 million hectares and ecological diversity enabling the country to produce a wide variety of crops and livestock, forestry and fisheries products, the country had the great potential of harnessing her vast natural resources for sustainable agricultural development.⁶

² Food and Agricultural Organization of the United Nations, 'Statistics on Production and Trade' <<http://faostat3.fao.org/home>> accessed 6 January 2022.

³ O Udegbunam, 'Nigeria's Agriculture Contribution 'to GDP Falls Despite Economic Rise' *Premium Times* (Abuja, 25 May, 2021) <<https://www.premiumtimesng.com/agriculture/agric-news/463730-nigerias-agric-contribution-to-gdp-falls->

⁴ Food and Agricultural Organization of the United Nations, (n³).

⁵ IFAD, 'Enabling Poor Rural People to Overcome Poverty in Nigeria', <<http://www.ifad.org/operations/projects/regions/pa/factsheets/ng.pdf>> accessed 17 January 2020.

⁶ I Smith, 'Promoting Commercial Agriculture in Nigeria through a reform of the Legal and Institutional Framework (2018) *African Journal of International and Comparative Law*, 3.

The exploration and discovery of crude oil was the turning point in the performance of commercial agriculture and its contribution to the country's Gross Domestic Product.⁷ The windfall from 'oil money' with the attendant negative consequences, the re-directed focus of government in maximising crude oil production to the neglect of agricultural development and the dwindling political will in promoting agriculture and agro-allied industries, consequently led to low productivity in agriculture over the years.⁸ It would be recalled that prior to Nigeria's independence, and more importantly, the discovery of oil in Southern Nigeria in 1956, the country was self-sufficient in agricultural productivity and was recognised a global player in the Agricultural Sector. In 1961, the country accounted for 42 percent of the global trade in groundnut oil, 27 percent of the world's palm oil industry and 18 percent of global trade in cocoa.⁹ Despite the decline of agricultural activities following the commercial exploitation of oil in the 1970s, the Agricultural Sector remains the highest employer of labour and the second largest export commodities after the Oil Sector.¹⁰ According to the National Bureau of Statistics, agriculture contributed 38.2 percent of the country's GDP in July 2018.¹¹ However, the Agricultural Sector grew by 14.88 per cent in the third quarter of 2019, showing a decline of 3.44 per cent points from the same quarter of 2018.¹²

The contribution of Nigeria's Agricultural Sector to the GDP in the first quarter of 2020 was the sector's highest first-quarter contribution in the previous two years as data released by the NBS showed that the sector in the first quarter of 2020 contributed 21.96 per cent to the nation's GDP, which is the monetary value of all finished goods and services made in the country. The contribution is higher than 21.89 per cent and 21.66 per cent recorded in the first quarters of 2019 and 2018 respectively.¹³ In terms of growth rate, agriculture grew by 2.20 per cent in the first quarter of 2020 over the corresponding period in 2019, a decline since the first quarter of 2019 grew by 3.17 per cent over the previous year. If inflation is included, that

⁷ T Williams, 'Commercial Agriculture and Law Reform in Nigeria' [2018] *African Journal of International and Comparative Law* 12

⁸ *ibid* 15

⁹ NN Nwankpa, Sustainable Agricultural Development in Nigeria: A way out of Hunger of Poverty and Hunger [2017] (6) (4) *European Journal of Sustainable Development*, 175.

¹⁰ National Bureau of Statistics, 'National Manpower Stock and Employment Generation Survey' (2010): <www.nigeriastat.gov.ng/pages/download/41> accessed 17 January 2020.

¹¹ National Bureau of Statistics, 'Gross Domestic Product for Nigeria' (2018), <<http://nigerianstat.gov.ng/nbslibrary/economic-statistics/gross-domestic-product>> accessed 17 January 2020.

¹² *ibid*.

¹³ N Ekkot, 'Agriculture's Contribution to Nigeria's Economy in Q1 'Highest In Two Years' – NBS' *Premium Times* (Abuja, 29 May, 2020) <<https://www.premiumtimesng.com/agriculture/agric-news/395214-agricultures-contribution-to-nigerias-economy-in-q1-highest-in-two-years-nbs.html>> accessed 10 June, 2020.

is in nominal terms, agriculture contributed 20.88 per cent to nominal GDP in the first quarter of 2020. In real terms, Nigeria's GDP for the first quarter of 2020 stood at N16.7 trillion, meaning agriculture generated about N3.7 trillion. This shows that the sector remains very important and highly relevant to the development of Nigeria's economy as well as in reducing the high level of unemployment with consequences that include poverty.¹⁴ There are some agricultural policies and laws¹⁵ that have been made in Nigeria to determine the effectiveness of these Policies and Laws regarding agricultural sustainability and rural development. The main challenge in Nigeria is to produce sufficient food and fiber for a growing global population at an acceptable environmental cost. Agriculture releases significant amount of Green House Gases such as carbon dioxide, methane, and nitrogen oxide along with ammonia emissions to the atmosphere. The main mechanisms of gaseous emissions comprises microbial decay or burning of plant and soil organic matter. Accordingly, the impact of agricultural practices on environmental sustainability is relevant to the needs of today and tomorrow judging from the effects of climate change in Nigeria.

2. Meaning of Sustainable Agriculture

There is no universally acceptable definition of the term 'Sustainable Agriculture'. Hence, attempts to try and find a single all-encompassing definition allow doomed to failure: Due to the complex and contested nature of the notion of sustainable agriculture, and its adaptation to context, its precise and absolute definition is impossible.¹⁶ Sustainable agriculture has gained prominence since the publication of the Brundtland Report in 1987, alongside the overarching concept of sustainable development.¹⁷ However, there have been various attempts to define Sustainable Agriculture. Sustainable Agriculture is the capacity of a farm to produce continuously based on long-term effects of various practices on soil properties and processes that are necessary for farm productivity and the long-term availability of inputs.¹⁸ It is also an integrated system of plant and animal production practices having a site-specific application. Thus, it is the production of food, fiber, or other plant or animal products

¹⁴ AC Robinson and E U Stanley, 'Potentials of Covid-19 For Economic Greatness in Agriculture: The Nigerian Case' [2020] (3) (1) *Journal of International Conference Series* 144

¹⁵ Agricultural and Rural Management Training Institute Act 1980 Cap A10 Vol. 1 LFN 2004, Agricultural Credit Guarantee Scheme Fund Act 1977 Cap A11 Vol. 1, LFN 2004, Agricultural Research Council of Nigeria Act 1999, Cap A12 LFN 2004, Agricultural (Control of Importation) Act 1964 Cap A13 LFN 2004.

¹⁶ JN Pretty, 'Participatory Learning for Sustainable Agriculture' [1995] (23) *World Development*; 1247–1263.

¹⁷ J Tait and D Morris, 'Sustainable Development of Agricultural Systems: Competing Objectives and Critical Limits [2000] (32) *Futures*, 247–260.

¹⁸ IN Medugu, 'Achieving Sustainable Agriculture in Nigeria: A land-use policy perspective.' *Tokyo Academic, Industry & Cultural Integration Tour*, (Japan December 10 2006), <<http://eprints.utm.my/3538/1/idris.pdf>> accessed 7 February, 2020.

using farming techniques that protect the environment, public health, communities and animal welfare. It has also been defined as farming systems that are 'capable of maintaining their productivity and usefulness to society indefinitely. Such systems must be resource conserving, socially supportive, commercially competitive and environmentally sound.¹⁹ According to the American Society of Agronomy, Sustainable Agriculture is one that, over the long term enhances environmental quality and the resource base on which agriculture depends, provides for basic human food and fiber needs, is economically viable, and enhances the quality of life for farmers and society as a whole.'²⁰ It is worthy of note to point out that the primary goals of sustainable agriculture include:

- (a) Providing a more profitable farm income;
- (b) Promoting environmental stewardship, including:
 - (i) Protecting and improving soil quality
 - (ii) Reducing dependence on non-renewable resources, such as fuel and synthetic fertilizers and pesticides, and
- (c) Minimizing adverse impacts on safety, wildlife, water quality and other environmental resource;
- (d) Promoting stable, prosperous farm families and communities.

Sustainable Agriculture is one that produces abundant food without depleting the earth's resources or polluting its environment. However, sustainable practices used by organic farming can contribute to reduction of emissions of green house gases and sequester more carbon dioxide from the atmosphere in the soil than conventional agriculture. For example, the preference for organic fertilizers rather than pesticides produced through energy-intensive processes, waste recycling, efficient recycling of manures from livestock and crop residues by composting, use of farmyard manure as a fertilizer in the crops, reforestation, afforestation, reduced livestock units per hectare, diversified crop rotations with green manure or longevity of animals on organic farms, are all relevant practices to minimize climate change.²¹

¹⁹ J Ikerd, 'Sustainability's Promise', [1990] (45)(1) *Journal of Soil and Water Conservation*; 4.

²⁰ DC White and Others. 'Economics of Sustainable Agriculture' in JL Hartfield and DL Karlen (eds), *Sustainable Agricultural Systems* (London; Boca Raton Lems Publishers 1994) 232.

²¹ Institute for Prospective Technological Studies (IPTS) within the European Commission's Joint Research Centre, 'Assessing Agriculture Vulnerabilities for the design of Effective Measures for Adaption to Climate Change' (Avmac Project), (2012).

On the whole, Sustainable Agriculture is such that, over the long term, enhances environmental quality and the resource base on which agriculture depends; provides for basic human food and fiber needs; is economically viable; and enhances the quality of life for farmers and society as a whole.

3. Agricultural Laws in Nigeria

Agriculture as a major platform for national development as well as the major driver of the economy of any nation cannot be sustainable without an effective legal framework as its backing. Joshua²² defines Agricultural Law as “the body of all legal rules governing all of agricultural economics, animal science, agronomy, food and nutrition, agricultural extension, rural sociology and fishery”

The following are the Laws that deal on Agriculture in Nigeria:

1. Constitution of the Federal Republic of Nigeria 1999 (As Amended)

In realising the relevance of commercial agriculture in Nigeria, it is necessary to examine the efficiency of the constitutional framework. In the case of agriculture, both the National Assembly and the State Houses of Assembly may make laws with regard to Agricultural Development, among others.²³ The implication is that both the Federal Government and the States may make laws on Agriculture. However, States do not enjoy the same level of participation and priority which they had under the 1963 Republican Constitution (1963 Constitution) in the context of competence to determine Trade Policy directions in agricultural commodities. Under the 1963 Constitution, the Regions were responsible for the implementation of legislation on standards and quality of commodities passed by Parliament, the regulation of prices through their purchasing authorities and the carrying out of processes related to international trade and commerce before final Port Inspection and the actual export.²⁴ However, the position changed from 1966 onwards as a result of the incessant intervention of the military in governance and the introduction of the Unitary System of Government in Nigeria.

The new model of shared competence under the 1999 Constitution is the removal

http://ec.europa.eu/agriculture/analysis/external/avemac/full_text_en.pdf accessed 2nd February, 2020.

²² N. Joshua *An Introduction to Agricultural & Fisheries Law in Nigeria* (Pearl Publishers, 2008) P. 3

²³ *ibid*, 2nd schedule, Pt. II, item 1, 18, 19 and 20.

²⁴ A Ajala 'Trade and Agriculture in Nigeria' in Ako RT, and Olawuyi DS (eds), *Food and Agricultural Law: Readings on Sustainable Agriculture and the Law in Nigeria* (Ado Ekiti: Afe Babalola University, (ABUAD), Nigeria 2015), 148.

of complementary provisions under the 1963 Constitution which gave the then Regions powers of co-determination in establishing purchasing authorities, regulating the prices to be paid by purchasing authorities for commodities from producers at source and in implementing the legislation on standards and quality passed by Parliament. This obviously truncates the ability of the States to develop their export capacity in agricultural commodities and consequently leads to deficiency in the Standards and Quality of the country's exports. While under the 1963 Constitution Standards pertaining to Agricultural Commodities were a joint effort between the Federal Government and the Regions, under the CFRN 1999, States have been stripped of the relevant powers and standards are now determined by the Standards Organisation of Nigeria.

The exclusion of the States as part of the Standardization Process under the CFRN 1999 is a contributory factor to the low quality of agricultural products/food exports from Nigeria and the Mandatory Standard System has proved to be an inefficient system for the country.²⁵ The absence of institutions that perform the quality functions of the defunct Commodity Boards is one of the main reasons for deterioration in the quality of cocoa and cotton products.²⁶ Whereas the Commodity Boards in the Regions had the opportunity to ascertain grades of agricultural products before sale to merchants for onward exportation, with the abolition of the process, merchants now buy directly from farmers.²⁷ The position of the CFRN 1999 on matters of international trade in agricultural commodities is inimical to the maximisation of Nigeria's potential in the agricultural sector.

The Fundamental Objectives and Directive Principle of State Policy on food under the CFRN 1999 of the Federal Republic of Nigeria states that: The State shall direct its policy towards ensuring that suitable and adequate food is provided for all citizens subject to availability of resources. According to the Nigerian Constitution every person has a right to life and no one shall be deprived intentionally of his right. This right to life cannot be guaranteed in the absence of a Sustainable Agricultural Sector. It takes efforts directed at reducing the number of people living in extreme poverty, attempts aimed at putting an end to hunger and the attainment

²⁵ A Adegboye and Bankole AS, 'Standards, Technical Regulation and Product Quality', in J Wilson and Abiola V, (eds), *Standards and Global Trade: A Voice for Africa* (World Bank Publication, 2003): 212.

²⁶ *ibid* 215.

²⁷ CFRN 1999 s 33(1).

of food security, improved nutrition and the promotion of sustainable agriculture to guarantee the right to life.

2. Land Use Act, Cap 15, Laws of the Federation of Nigeria 2004

By virtue of Section 1 of the Land Use Act, all land comprised in the State are vested in the Governor who holds same in trust for the citizens. The Governor administers the land in the State for the use and common benefit of citizens of the country in accordance with the provision of the Act. Availability of land is a prerequisite for agriculture. Land for agricultural purposes in urban and non-urban areas is provided for under Section 51 of the Land Use Act. The provision allows a maximum land of 500 hectares for planting of any crops of economic value for non-urban area. The maximum land of 5,000 hectares is allowed for growing fodder for livestock or grazing in a non-urban area. The Governor can approve ...in the maximum land for either agricultural or grazing purposes. The implementation of this provision is a margin consideration in the progress of agriculture in Nigeria.

**3. Agricultural and Rural Management Training Institute Act 1980
Cap A10 LFN 2004**

In terms of rationale, the Agricultural and Rural Management Training Institute Act²⁸ seeks to provide, *inter alia*, detailed identification of management training needs in agriculture and rural development organizations throughout Nigeria, and to develop and implement training programmes to meet the needs of managers in the agricultural and rural development sector of the economy.

In terms of Structure and Content, the ARMTI Act has 17 Sections and deals with the following matters:

- i) the establishment and functions of the Agricultural and Rural Management Training Institute (the Institute);
- ii) the Governing Board of the Institute; the Director of the Institute and other staff;
 - iii) financial provisions;
 - iv) borrowing power and power to receive gifts;
 - v) annual estimates, accounts and audit;

²⁸ ARMTI Act 1980.

- vi) annual report; and
- vii) staff regulations.

The ARMTI Act in Sections 12 to 15 deals with matters relating to the procedure in respect of suits against the Institute (including Pre-action Notice); Service of Documents on the Institute; Restriction on Execution against the property of the Institute; and the power of the Minister of Agriculture to give directions to the Board. Finally, Section 16 of the ARMTI ACT deals with Interpretation and Section 17 is the Citation. However, in 2016²⁹ the National Assembly enacted the Agricultural and Rural Management Training (Amendment) Act 2016 to allow Federal Universities participate on the Board of the Institute.³⁰

4. Agricultural Credit Guarantee Scheme Fund Act 1977 Cap A11 LFN 2004

The Agricultural Credit Guarantee Scheme Fund Act³¹ seeks to establish a Fund into which shall be subscribed a certain sum to provide guarantees for loans granted for agricultural purposes by any bank. In terms of Structure and Content, the ACGSFA Act has 23 Sections and a schedule. Sections 1 to 3 deal with matters relating to: the establishment of the Agricultural Credit Guarantee Scheme Fund (the Fund); the establishment and composition of the Agricultural Credit Guarantee; Scheme Fund Board (the Board); and the functions of the Board. Section 4 provides for the appointment by the Minister of Finance of a Managing Agent (who may be a Corporate Person or Unincorporated) for the administration of the Fund. The Managing Agent is to act in accordance with general directions given by the ACT in accordance with general directions given by the Board. The ACGSFA ACT in Sections 5 to 12 also deals with matters relating to: the amount to be paid into the Fund (one hundred million naira); limits of liability of the Fund in respect of guarantees; applications for loans and for guarantees; forms and terms of loan agreement; forms of security; safeguard in respect of certain loans; and recovery of outstanding loan. Section 13 provides that no loan granted pursuant to the Act shall be applied for any purpose other than that for which the loan was granted and any person who applies any loan in contravention of Section 5 also provides for criminal liability in the case of a Corporate Body. The ACGSFA Act

²⁹ Agricultural and Rural Management Training (Amendment) Act of 2016, s.3.

³⁰ *ibid* s.2 (1) (d).

³¹ ACGSFA 1977.

confers the Minister with discretionary powers to make rules;³² requires banks to establish Agricultural Finance Departments³³ and requires banks to make returns on its activities with regard to loans granted by the bank for the purposes of the Act.³⁴ Sections 17 to 23 of the Act deals with legal proceedings, investment of surplus money in the fund; accounts and audit; annual reports; regulations; interpretation and citation. “Agricultural Purposes” under the Schedule covers any purpose connected with – the establishment or management of plantations for the production of rubber, oil palm, cocoa, coffee and similar crops; the cultivation or production of cereal crops, tubers, fruits of all kinds, cotton, beans, groundnuts, shea nuts, beniseed, vegetables, pineapples, bananas and plantain, livestock production including cattle ranching, piggery, poultry, and fish culture, fish captures and storage; farm machinery and hire services.

Agricultural purposes also include integrated agricultural projects, incorporating production and processing, provided that the primary production element accounts for not less than 40 percent of the raw materials required by the factory. Suffice it to state here that in 2019, the National Assembly enacted the Agricultural Credit Guarantee Scheme Fund (Amendment) Act 2019³⁵ to enhance capital base, expand the coverage of the Scheme, increase the size of the loanable fund, increase membership and give more power to the Board.³⁶ The Amendment Act 2019 has eight Sections. Section 2(2) of the Principal Act is amended by substituting paragraph “a” with a new paragraph “a” to include that the Minister shall appoint:

- (a) Chairman
- (b) Representatives of the Nigerian farmer,
- (c) a representative of the Federal Ministry of finance and
- (d) a representative of the Federal Ministry of Agriculture.³⁷

Similarly, Section 5 of the Principal Act is amended by substituting one “hundred million naira” to “fifty billion naira”. Also a new Subsection (2) is added and it states that 'the fifty billion naira will be increased as the Board may determine and

³² ACGSFA 1977, S. 15.

³³ (n³²) s.15.

³⁴ *ibids.* 16.

³⁵ Agricultural Credit Guarantee Scheme Fund (Amendment) Act 2019 s.8.

³⁶ (n³⁵) Schedule to the Act.

³⁷ ACGSFA Amendment Act 2019 s.2.

that amount shall be contributed in a proportion as the Board may prescribe'.³⁸ Section 6(1) of the Principal Act is amended by substituting '100,000' (one hundred thousand) in line 1 to include 50,000,000 (fifty million). Also, the word 'Minister' in the Principal Act is substituted with the word 'Board'.³⁹ Section 10(2) of the Principal Act is also amended by substituting '5,000' in line 2 with 100,000. Paragraph 1 of the Schedule of the Principal Act is amended by inserting after the word 'coffee' with the word 'tea'. In Sub-paragraph (d) by inserting after the word 'machinery' with the word 'purchase'⁴⁰ and by inserting new paragraphs (e) and (f). By paragraph,

- (e) production of farm machinery, implements and equipment for production, storage processing and transportation;
- (f) Any purpose connected with the activities within the Agricultural value chain.⁴¹

5. Agricultural Research Council of Nigeria Act 1999 Cap A12 LFN 2004

The Agricultural Research Council of Nigeria (the Council)⁴² provides for the establishment of the Agricultural Research Institutes by the Council. The ARC Act is divided into 6 parts and 20 sections. Part 1 deals with matters relating to the Establishment of the Council; the Governing Board of the Council; the Tenure of Office and Remunerations of Members of the Governing Board, while Part 2 deals with the Functions of the Council, Part 3 relates to the Staff of the Council. Part 4 deals with the Establishment of the National Agricultural Research and Extension Endowment Fund; the Fund of the Council; Power of the Council to borrow and to accept gifts; Annual Estimate; Accounts and Audit; and Annual Report.

Part 5 deals with the Establishment of Research Institutes by the Minister of Agriculture while Part 6 covers Miscellaneous Provisions on: Offices and Premises; directives by the Minister; saving of certain Research Institutions, Regulations, Interpretation and Citation. Section 19 (the Interpretation Section) of the ARC Act defines "Agricultural Sciences" to include crop science, fisheries, forestry and veterinary science. By virtue of Section 6 of the Act the President, on the recommendation of the Minister of Agriculture is to appoint an Executive

³⁸ *ibid* s 3.

³⁹ *ibid* s.4. The sections amended in the principal Act are 7(1)-(9), 14(1), 16(1) and 19(1).

⁴⁰ *ibid* s.7(b).

⁴¹ ACGSFA Amendment Act s.7

⁴² ARC Act.

Secretary who is responsible, *inter alia*, for the day-to-day administration of the Council and its Secretariat. The ARCN Act has 2 Schedules: Schedule 1 makes supplementary provisions relating to the Governing Board of the Council while Schedule 2 makes provisions relating to research Institutes established pursuant to the Act.

6. Agriculture (Control of Importation) Act 1964 Cap A13 LFN 2004

The rationale of the Agriculture (Control of Importation) Act⁴³ is to make provisions for regulating the importation of articles for the purpose of controlling plant diseases and pests. With respect to the Structure and Content, the ACI Act has 12 sections. Section 1 is the citation while Section 2 is the Interpretation section. Section 3 provides for designation of authorized officers for the purposes of the ACI Act. Under Section 4, the Minister of Agriculture has discretionary powers to make regulations prohibiting, restricting or laying down conditions for the importation from any or all categories of plants, seeds, soil, containers, straw and other packing materials, artificial fertilizers, and other similar goods or things. The regulations so made are to be laid before the National Assembly.⁴⁴ Sections 6 to 10 of the ACI Act deals with matters relating to diseases and pests; furnishing of information; offences and penalties; prosecution; and defence in Civil and Criminal Proceedings brought against any Public Officer in respect of any act done pursuant to the ACI Act. Section 11 deals with the power of the Director of the Federal Department of Agricultural Research to sue for fees while Section 12 is on transitional provisions. Section 2 of the Act provides definitions for the following selected key terms: “Imports” means to bring or cause to be brought into Nigeria; and “importation” shall be construed accordingly. “Pest” means any insect or other animal injurious to agricultural or horticultural crops. “Plant” means any plant or parts of a plant such as cuttings, suckers, bulbs, tubers, roots, haulms, and fruits; but does not include the manufactured or processed products of plants. “Plant disease” means any disease caused by fungus, bacterium, virus, or any other organism injurious to agricultural or horticultural crops.

7. National Agricultural Seeds Council Act, 2019

This repealed the Agricultural Seeds Council Act.⁴⁵ The Seeds Act was reviewed

⁴³ ACI Act, 2004

⁴⁴ Agricultural (Control of Importation) Act Cap. A13 LFN 2004, s.5.

and amended through a series of processes involving National and International bodies.

The National Agricultural Seeds Council Act⁴⁶ seeks to promote, stimulate the development of dependable Seed Industry. It regulates and controls the registration of released varieties, protect the farmers from the sales of poor quality seeds, facilitate the production and marketing of high quality seeds in Nigeria and provides legal backing for official testing certification, sales, importation, exportation and use of seeds. The NASCA Act promotes greater private sector participation in the Seed Sub-sector in line with current Agricultural Seed Policy Globalization and Export Trade Promotion.

The NASCA Act, in terms of Structure and Content, is divided into 13 parts, two (2) Schedules and 55 Sections as follows: Part 1 deals with matters relating to the establishment of the National Agricultural Seeds Council (the Council); Membership and Functions of the Council; and Governing Board. Part 2 deals with Functions of the Council⁴⁷ and powers of the Board.⁴⁸ Part three deals with Appointment of Directors and other staff, Part Four deals with Appointment and Functions of Seed Inspectors. Part five deals with Seed Registration and Release, Part six deals with Seed Certification and Official Control. Part seven deals with Seed Production and Processing, Part eight deals with Support to Plant Variety Development and Plant Breeders Rights. Part nine deals with – Infringements and Offences, Part Ten deals with – Establishment of the Seed Fund. Part eleven talks about – Establishment of Departments and Zones. Part Twelve talks about Powers to Prosecute while part Thirteen deals with Miscellaneous. In addition, the NASCA Act promotes greater participation of the private sector in the Seed Industry. Nigeria's 2019 NASC Act conforms with the ECOWAS Seed Regulation (C/Reg.4/05/2008), passed in 2008. For example, the NASC Act elaborates standards for Seed Certification in compliance with ECOWAS Regulations and institutes a National Seed Catalogue with the ECOWAS Catalogue of Plant Species and Varieties as reference. In the NASCA Act of 2019⁴⁹ a person who

⁴⁵ Cap N5, LFN 2004 (Seeds Act).

⁴⁶ NASCA s.4.

⁴⁷ NASCA Act s.4.

⁴⁸ *ibid* s.5.

⁴⁹ NASCA Acts, 42(1).

commits an offence under this act is liable upon conviction:

- i. As a first offender, to imprisonment for a term not exceeding one year or a fine not exceeding N1,000,000; and⁵⁰
- ii. In the event of such person having been previously convicted under this section, he is liable to imprisonment for a term not exceeding two years or a fine of N2,000,000 or both.⁵¹

There is also the introduction of a provision for quality control for registered varieties for which there is no seed certification standards and unregistered or obsolete of interest to Nigerian farmers.⁵² The Seed Act recognizes 'planting materials' as a certifiable entity and empowers the Minister to approve categories of planting materials for certification purposes.⁵³ The Minister shall approve, by regulation, the categories of planting materials for Certification. The Minister shall promote policies and strategies to foster registration of new plant varieties and protection of farmers' rights.⁵⁴ By the provision of Section 49(1) "... any person who sells, keeps for sale, barter or otherwise supplies any seed of any variety or hybrid shall apply to the Council for grant of Certification for the purpose..." In other words, no seeds shall be commercialized in Nigeria unless sanctioned by the Council. However, this provision is not acted upon because seeds are commercialized in open markets. More so Sections 39 provides for the "Protection of Breeders' Rights (PBR) and "Temporary measures to protect Plant Breeders' Rights "and this gives the Ministry the mandate to approve separate Plant Variety Legislation to support Plant Variety Development to regulate Plant Breeders' Rights.

Amongst others, the following constitutes a breach of provision of the NASCA Act and its enabling regulations;

- i. Prevention of a seed inspector from taking sample under the Act;
- ii. Prevention of a seed inspector from exercising any other power conferred on him under the act;

⁵⁰ *ibid.*, s.42(1)(a).

⁵¹ NASCA, s.42(1)(b).

⁵² NASCA, Acts. 35.

⁵³ *ibid* s 18.

⁵⁴ *ibid*s. 39.

- iii. Production and marketing of seed without license by the council;
- iv. Marketing of seed without accreditation;
- v. Misleading information on seed labeling, willful modification or alteration of labeling and use of any trickery to mislead third parties as to the quality of the seeds;
- vi. Distribution from animal or human consumption of seeds treated with substances dangerous to human or animal health and unfit for consumption;
- vii. Failure to keep proper records and documents as laid down under section 9 (2) of the Act;
- viii. Import and export of conventional and genetically modified crop seed violation or applicable declaration;
- ix. Obstruction of official inspection or control activities;
- x. Non-compliance with the condition of admission for control; and
- xi. Fraud or attempted fraud in the utilization or marketing of seeds.

8. Nigerian Agricultural Insurance Corporation (NAIC) Act 1993 Cap N89 Vol.11 LFN 2004

The Nigerian Agricultural Insurance Corporation Act⁵⁵ seeks to provide a scheme to protect the Nigerian farmer from the effects of natural hazards by introducing measures which shall ensure an indemnity sufficient to keep the farmer in business and to establish the Nigerian Agricultural Insurance Corporation (the Corporation) as the body responsible for the implementation, management and administration of the Agricultural Insurance Scheme. In terms of Structure and Content, the NAIC Act is divided into 7 parts of 35 sections. Part 1 deals with the Establishment of the Corporation and its Board of Directors. Part 2 deals with the Functions of the Corporation, the Functions of the Board and the Powers of the Board. The Functions of the NAIC are provided in Section 3 and are: to implement, manage and administer the Agricultural Insurance Scheme (the Scheme); to subsidize the premium chargeable on selected crops and livestock policies from the grants received from the Federal and State governments and the Federal Capital Territory; to encourage Institutional Lenders to lend more for agricultural production having regard to the added security for their loans provided by the NAIC; to promote increased agricultural production in order to minimize or eliminate the need for ad

⁵⁵ NAIC Act., 2004

hoc assistance by Governments during agricultural disasters; to carry on insurance business on normal commercial basis and without subsidies on premium as Insurers of buildings, machineries, equipment and other items which form part of the total investment on farms and to reinsure this aspect of its operations through well-established channels with reputable insurance companies.

The NAIC is also to operate other types of insurance business as may be permitted by the Commissioner of Insurance at competitive rates; and to do anything or to enter into any transaction, which in the opinion of the Board is calculated to facilitate the performance of its functions. Part 3 provides for the establishment of the Agricultural Insurance Scheme whose specific objectives are to:

- a) Provide financial support to farmers where loss to crops or livestock arises from natural hazards;
- b) Induce the provision of credit by financial institutions to farmers; promote agricultural production;
- c) Minimize or eliminate the need for Government to provide ad hoc assistance to farmers during agricultural disasters.

Section 8 deals with the risks to be covered by the Scheme; in the case of crops, damage or loss caused by either fire, lightening, windstorm, flood, drought, pests or invasion of farm by wild animals and; in the case of livestock, death or injury caused by either accident, disease, fire, lightening, storm or flood. Part 3 in addition, deals with premium; indemnity; requirement for indemnity; bearing of losses; participating farmer and remittance of premiums by lending institutions. While Part 4 deals with the staff of the NAIC, including its Managing Director and executive directors; Part 5 covers the Reserve Fund. Part 6 covers matters relating to: the share capital of the NAIC; limitation of liability of shareholders; the Fund of the NAIC; expenditure of the Corporation; accounts and audit; and annual report.

Part 7 of the NAIC Act covers miscellaneous provisions relating to – the limitation of suits against the Corporation; Service of Documents on the Corporation; restriction on execution against the property of the corporation; indemnity of officers and other employees; non-exemption of the corporation from taxation; extended application of the Insurance Act; the dissolution of the Nigerian Agricultural Insurance Company; the power of the Corporation to, with the

approval of the Minister of Agriculture, make regulations and rules; and interpretation. Section 35 of the Act provides definitions of the following selected key terms: “Lending institution” means an organization giving credit for agricultural production and includes a bank and nonbank financing agency. “Insured” means the individuals or corporate bodies whether self-financed or the beneficiaries of institutional agricultural credit granted insurance cover by the Corporation. This in fact, is just on paper and not proactive.

9. River Basins Development Authorities Act 1987 Cap R9 LFN 2004

The attempt to use the proceeds from the crude oil exportation to develop agriculture as a means of diversifying the economy. This led to the establishment of River Basin Development Authorities (RBDAs) in different parts of the country in 1976. The RBDAs were primarily established to provide framework on how to ensure agricultural development through provision of water for irrigation (to ensure all-year farming), fisheries projects, mechanized farming and livestock development by the authorities. Also, they are to improve navigation, hydro-electric power generation and encourage the establishment of industrial complexes that could bring about the private and public sectors in joint business partnerships. Furthermore, RBDAs are meant to bridge the gap between the rural and urban centres by taking development to the grassroots and prevent rural-urban migration which is one of the scourges affecting the nation's economic development. However, these activities are yet to impact significantly on the attainment of the objectives for which the authorities were created. The country still depends on rain fed agriculture because the authorities are yet to live up to the expectation of using modern irrigation technology to ensure all year round farming through two or more cropping seasons. This would have improved the present instability in crop and livestock productions.

10. National Fertilizer Quality Control Act 2019

The Federal Government launched the **National Fertilizer Quality Control Act 2019** as a vital component of the Agricultural Policy of this present **Administration** and the bid to repositioning of Nigeria economy from oil and gas to agribusiness. The Act has 29 sections and three parts. The NFQCA empowers the Farm Input Supply Services Department of the Federal Ministry of Agriculture and Rural Development to within 30 days, issue license or certificate to qualified

applicants, who want to participate in the fertilizer industry⁵⁶ and where such certificates are not to be issued, the reasons must be made clear why such applicants cannot get the certificate.⁵⁷ Similarly, an application for a permit or certificate of registration under subsection (2) (a) shall be 'made on such reform and in such manner, and accompanied by non-refundable fee as may be prescribed in regulations made.'

A permit may be cancelled or not registered⁵⁸ where:

- i. Where the circumstances under which it was issued no longer exist;
- ii. Any of the conditions under which it was issued was contravened.

The NFQCA explains that a person engaged in the sale, distribution, transportation of fertilizer or who keeps custody of fertilizer shall not, without lawful authority, divert or convert the fertilizer to his use or the use of another, if found wanting shall pay a fine of N1 million or be sentenced to a term of imprisonment of at least six months or both.⁶¹ The minimum content of fertilizer can be found in the first schedule of the NFQCA. Manufacturing, blending, importing or distributing of unbranded or misbranded fertilizer is a serious offense;⁶² dealing in adulterated fertilizer, offering for sale fertilizer that is underweight,⁶³ selling condemned fertilizer or diverting or converting fertilizer, or flaunting a 'stop-sale' order.⁶⁴ All of these carry a minimum of seven years imprisonment without an option of fine.⁶⁵ Similarly, obstruction of authorized officers for inspection constitutes a serious violation of the law.⁶⁶ Operating without permit or certificate of registration is a violation of the NFQCA. This offence is created in Section 2 and 8 and punished under Section 20 of the NFQCA, and the punishment is a minimum fine of N5 million, but not exceeding N10 million in the case of a manufacturer, blender or importer. If they are unable to pay the fine, the law will proceed against their assets.

⁵⁶ NASCA Act, 2019.

⁵⁷ *ibid*, s.3.

⁵⁸ *ibid*, 4(1).

⁵⁹ *ibid* s. 4(1), (b).

⁶⁰ *ibid* s. 4(1) (c).

⁶¹ *ibid* s.20.

⁶² NFQCA s.17(a).

⁶³ *ibid*, s.17(d).

⁶⁴ *ibid*, s.17(g).

⁶⁵ *ibid*, s.18(1).

⁶⁶ *ibid*, s.10.

Where a director, employee or agent of such company is found to be liable, they can also be prosecuted under this law.⁶⁷ Also, where a distributor or a corporate person is involved, there is a minimum fine of N500,000 daily as long as the offence persists.⁶⁸

There's also the offense of obstructing an authorized officer of the prescribed authority, this offense is created by *section* 11 of the NFQCA and attracts a punishment of a fine of at least N200,000 or a term of imprisonment of at least six months or both.⁶⁹ Where an officer of the federal ministry of agriculture is attempting to visit a factory to do their job, and the owners of the factory obstruct such an officer, those who obstruct the officer will be liable to this offence and they may be punished by the court if they are prosecuted. The NFQCA has widened access to the court, by extending jurisdiction to all Federal High courts.⁷⁰ Where a farmer suffers losses, he/she can approach the aforementioned court as the law authorizes the courts to award compensation to protect such farmers who have suffered from the violation of the law. The loss may include buying adulterated fertilizer that affects his/her produce yields.

11. Nigeria Agriculture Promotion Policy (2016-2020)

The Nigeria Agriculture Promotion Policy came into force to bridge the gap created by the Agricultural Transformation Agenda from 2011-2015. The country was faced with two key gaps in agriculture: an inability to meet domestic food requirements and an inability to export at quality levels required for market success. The former problem is a productivity challenge driven by an input system and farming model that is largely inefficient. As a result, an aging population of farmers do not have enough seeds, fertilizers, irrigation, crop protection and related support to be successful. The latter challenge is driven by an equally inefficient system for setting and enforcing food quality standards, as well as poor knowledge of target markets. Insufficient food testing facilities, a weak inspectorate system in Federal Ministry of Agriculture and rural development, and poor coordination among relevant federal agencies serve to compound early stage problems such as poor knowledge of permissible contaminant levels.

⁶⁷ *ibid*, s.19(1).

⁶⁸ *ibid*, s.19(2).

⁶⁹ *ibid*, s 21.

⁷⁰ National Fertilizer Control Act s 22.

This Policy focuses on solving the core issues at the heart of limited food production and delivery of quality standards. As productivity improves domestically and standards are raised for all Nigerian food production, export markets will also benefit impacting positively on Nigeria's balance of payments. Given limited resources and the importance of delivering sustainable results, the Federal Ministry of Agriculture & Rural Development (FMARD) in consultation with partners has identified an initial pool of crops and related activities that will be Nigeria's path to tackling the aforementioned gaps.

12. Nigeria Digital Agriculture Strategy (2020-2030)

Nigeria Digital Agriculture Strategy (NDAS) was laid down in November, 2020 by the National Information Technology Development Agency of Nigeria. It pushes for a Nigerian agriculture sector that promotes the use and adoption of digital technologies and innovations with the following aspirations between 2020 and 2030. Therefore, NDAS is designed to address these challenges, to optimize agriculture value chain through the deployment of disruptive digital technologies to improve production, reduce waste, facilitate access to market and thereby put Nigeria on the path of food security and substantial income generation for human and infrastructural development. The NDAS is not just about digitalization, it is a deliberate effort to modernize the sector and bring it up to speed. The NDAS is built on the ideas of the 4th Industrial Revolution (internet technologies. Broadband connectivity, web-enabled smart phones, mobile applications, social media platform; and disruptive technologies and innovations such as Block chain, Internet of Things (IoT), Artificial Intelligence (AI), Big Data Analytics and Immerse Reality would drive the modernization process. The strategy frames the strategic intents for Nigeria's digital agriculture by defining the vision, goals, objectives, strategic pillars among others. It identifies basic and enabling conditions for accelerating digital agriculture and proposes ways to address them. In addition, the principles for digital development are highlighted and emphasized to be strictly followed in all the digital agriculture projects in Nigeria. Furthermore, the framework for digital agriculture is articulated and the multi-stakeholder nature of the agriculture sector is recognized. It covered the ecosystem and core drivers of digital agriculture as identified by Nigeria Smart Initiatives Policy Framework (NSIPF). An implementation governance framework to be anchored by the National Information Technology Development Agency (NITDA) and

supervised by the Federal Ministry of Agriculture and Rural Development (FMARD) and the Ministry of Communications and Digital Economy is articulated based on the NSIPF governance structure. The roles and responsibilities of all members within the ecosystem are clearly defined and assigned. The implementation would require the commitment of all stakeholders to achieve the set objectives. A robust Monitoring and Evaluation exercise is designed for effective and efficient implementation of the programme to achieve the NDAS strategic goals and objectives while policy recommendations are made on key issues to aid the implementation. The Vision Goals are:

- i. To make Nigeria One of the top three (3) most food-secure country in Africa and top 20 largest exporter of standard agricultural produce by 2030 through the use and application of digital technologies and innovations;
- ii. Increase agriculture productivity, achieve food security and reduce food wastage by 50%;
- iii. Create an enabling environment for and attract seven 7 Million youths into agriculture business across the agric-value chain;
- iv. Create an enabling environment to increase agriculture contribution to GDP by 50% and food exportation to the tune of 10 trillion Naira per annum;
- v. Reduce the effect of climate change on agriculture by 40%.

The following objectives are set to accelerate achievement of the goals by 2030:

- i. To increase Research and Development (R&D) and deployment of digital technologies and innovations across agriculture value chain for the purpose of: (a) improving agriculture productivity by 50%; (b) reducing food wastage by 50% (c). reducing effect of climate change by 40% yield; quality; cost reduction; appropriate use of water, chemicals, farm inputs etc.);
- ii. Support every agriculture programme with digital capabilities to create sustainable business models and opportunities; to create a total of about 10 Million well-paying jobs across the agriculture value chain (production, harvesting storage, processing, marketing, traceability and consumption); and ensure every farmer in Nigeria has: a) access to quality inputs; b) grow farm produce that are of international standard as well as equal access to market (local and international) for farm produce.

13. Conclusion and Recommendations.

Meeting the Sustainable Development Goals to end poverty, hunger and malnutrition amongst others by 2030 requires a more productive agricultural sector. Thus, a legal framework for sustainable agricultural practice that is carefully designed and implemented with the necessary political will and the involvement of relevant stakeholders is imperative for an effective improvement in economic activities, social equity and increased environmental health.

The current trend towards building an agriculturally oriented economy calls for urgent overhauling of the agricultural credit scheme. There is the need to harmonise the various laws on the agricultural sector with a view to making security more attractive.

The Agricultural Control of Importation Act be reviewed since its commencement date was in March 1964 as it is out of sync with the present day realities of Agricultural importation. On the whole, Sustainable agricultural systems can be economically, environmentally and socially viable, and contribute positively to local livelihoods with appropriate policy support and implementation.