



CENTRE FOR CLIMATE
CHANGE & DEVELOPMENT

LEGAL PERSPECTIVES TO RAISING AMBITION AND IMPLEMENTING THE NATIONALLY DETERMINED CONTRIBUTIONS (NDCs) IN NIGERIA

By

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Nigeria's Nationally Determined Contributions (NDCs) Revision
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Promoting Critical Analysis of, and Public Engagement with Nigeria’s NDC Revision and Climate Action Project

The Promoting Critical Analysis of, and Public Engagement with Nigeria’s NDC Revision and Climate Action Project is a project implemented by the Climate Change and Development Centre, Alex Ekwueme Federal University, Ndufu-Alike Ikwo, in partnership with the World Resources Institute with funding from the IKEA Foundation. The project is geared towards providing independent critical analysis and input into the revision process of Nigeria’s Nationally Determined Contribution (NDC) which is due for submission in November 2020. The project is also intended to increase public awareness of, and stakeholders’ engagement in the revision and subsequent implementation of the revised NDC. It is also expected that project will increase public awareness of climate change in Nigeria more broadly. The project aims to help widen the horizon of the discourse and strongly compliment the government-led NDC revision process with the support of the NDC Partnership through the Climate Action Enhancement Package (CAEP), by injecting academic analysis and more public debate into the process.

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The report was written by independent experts who have not been nominated by their governments. Any views expressed in the paper do not necessarily reflect the views of CCCD-AEFUNAI or WRI.

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1.0 Abstract

The Paris Agreement adopted a new approach to undertaking commitments under the climate change regime – the country-driven, bottom-up approach to determining countries' climate change mitigation and adaptation commitments. The commitments undertaken via this approach, referred to as “Nationally Determined Contributions (NDCs)” is, as the name indicates, determined by the Parties to the Agreement themselves, based on their national circumstances.

Nigeria's NDCs, submitted in 2015, sets out the country's mitigation objective of reducing its greenhouse gas emissions by 20% below 2010-2014 levels (base data period) by the year 2030; and, if the country receives international support to do so, to reduce its emissions by 45% below the base period levels by 2030. Under the Paris Agreement, Nigeria is required to submit an updated NDC by 2020 and the revised NDC should represent a progression beyond the one submitted in 2015.

This paper considers whether Nigeria has the appropriate legal structure in place to enable the implementation of its current (2015) NDC, and if not, what kind of legal options or framework is required. Secondly, it explores the legal considerations surrounding Nigeria's submission of updated NDCs.

The paper highlights the gaps in the existing legal framework for climate change generally in Nigeria. It examines current relevant laws and regulations and identifies which ones would contribute towards NDC implementation, and their adequacy or lack of it. The paper also points out, regarding the submission of an updated NDC, that due to its special circumstances and based on equity and fairness, Nigeria might not be in a position to increase the mitigation target outlined in its 2015 NDCs, but can enhance its efforts by focusing on removing barriers impeding the implementation of the NDC and putting the appropriate legal and institutional framework in place to enhance its implementation.

2.0 Introduction

The Paris Agreement,¹ adopted in 2015, has been applauded as a significant step in the right direction in the fight to combat climate change. The Agreement aims to strengthen the global response to climate change by limiting the global temperature increase to well below 2°C above pre-industrial levels and pursuing efforts to limit the increase to 1.5°C.² This global temperature goal is intended to serve as a guide to countries' actions to combat climate change, as collectively, all actions taken by countries should help achieve this goal.³

It is important to note that the purpose of the Agreement also includes: an adaptation objective, which is to increase countries' ability to adapt to the adverse impacts of climate change and increase their resilience; and a finance objective, which is to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.⁴

1. The Paris Agreement to the United Nations Framework Convention on Climate Change (UNFCCC) adopted at COP 21 in Paris, France, on 12 December 2015 [hereinafter the Paris Agreement]. It is an agreement under the UNFCCC and sets out how parties to the Agreement will implement their commitments after 2020. The Paris Agreement entered into force on 4 November 2016. See the text of the Agreement at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

2. Paris Agreement, Article 2.1.

3. The reality however, is different, as the current NDCs submitted by countries will not achieve this goal. Rather, they are projected to result in an increase in greenhouse gas emissions of about 10.7% by 2030, according to UNFCCC analysis. See *The Heat is On: Taking Stock of Global Climate Ambition (2019)* UNDP and UNFCCC, page 10.

4. Paris Agreement, Article 2.1(b) and (c).

To achieve the purpose of the Agreement,⁵ countries are required to undertake and communicate ambitious NDCs to address climate change.⁶ What these NDCs should entail is further elaborated in Articles 3 to 12 of the Paris Agreement. Article 4 in particular deals with mitigation efforts to achieve the global temperature goal. Article 4.2 requires each party to prepare, communicate and maintain successive NDCs that it intends to achieve. Countries are also required to communicate either new or updated NDCs by 2020: for those countries with an

implementation time frame up to 2025 in their initial NDCs, they are to communicate new NDCs by 2020;⁷ and for those countries with an implementation time frame up to 2030 in their initial NDCs, they are to communicate or update their NDCs by 2020.⁸ Nigeria falls in this latter category. All countries are to submit new NDCs every five years thereafter in accordance with Article 4.9 of the Agreement. These new or updated NDCs must represent a “progression” beyond the countries’ then-current NDCs and reflect their highest possible ambition.⁹

3.0 Nigeria's First NDCs

Nigeria submitted its NDCs to the UNFCCC Secretariat in 2015.¹⁰ The document sets out the objective of promoting sustainable development within the country, by delivering direct and tangible development benefits, and at the same time, protecting the environment from the effects of climate change. Specifically, Nigeria's mitigation objectives are: to reduce greenhouse gas emissions (GHGs) by 20% below 2010-2014 levels by the year 2030, regardless of whether or not the country receives any international support (unconditional contributions); and to reduce GHG emissions by 45% below 2010-2014 levels by 2030, conditional upon the receipt of international support (conditional contributions). The implementation time frame for these contributions is 2015-2030. The NDCs document also sets out the key policies and measures the country intends to undertake to achieve its contributions.

The NDC makes it clear that regarding the unconditional contributions, these will deliver immediate and significant development benefits, before even considering their climate benefits, as the intended policies and measures are

in line with current national priorities. The key measures to be undertaken to achieve both the conditional and unconditional contributions are to:

- Work towards ending gas flaring by 2030;
- Work towards off-grid solar Photovoltaic (PV) of 13GW;
- Introduce efficient gas generators;
- Ensure 2% per year energy efficiency (30% by 2030);
- Enable a transportation shift from car to bus transport;
- Improve the electricity grid; and
- Implement climate-smart agriculture and reforestation.

Having outlined the measures intended to be pursued and the driving force, a question that will naturally follow is whether the current legal arrangement in Nigeria is adequate to deliver on these commitments. This paper considers this question next and also examines what other legal perspectives are relevant towards implementing Nigeria's NDCs.

5. That is, to achieve the global temperature goal, as well as the adaptation and finance goals, set out in Article 2.1 of the Agreement.

6. Paris Agreement, Article 3.

7. Decision 1/CP.21, paragraph 23.

8. Decision 1/CP.21, paragraph 24.

9. Paris Agreement, Article 4.3.

10. At the time Nigeria made its submissions, the contributions were referred to as “Intended” NDCs, or INDCs. INDCs are contributions countries intend to undertake, which they submitted to the UNFCCC Secretariat before the Paris Agreement was adopted. As countries ratify the Paris Agreement, they have the option of simply converting these INDCs to NDCs, or submitting new NDCs. Most countries, including Nigeria, converted their existing INDCs to NDCs.

4.0 Nigeria's Climate Change Legal Framework

The submission of its NDCs is another important step by Nigeria in its contribution to the global fight against climate change under the Paris Agreement, but even more important is the setting of the fundamentals and enhancing national efforts towards actual implementation of the NDCs. This section examines whether Nigeria has the appropriate legal structure in place to enable the implementation of the current NDCs, and if not, what other legal options or framework is required. In preparing the NDCs, Nigeria's expectation/intention was that the planned policies and measures to achieve the mitigation objectives would, to a large extent, implement or enforce existing policies or strategies,¹¹ although additional legislation and regulatory changes would be required in some instances. This presupposes that Nigeria's current legal framework is generally sufficient to ensure implementation of the NDCs, with a few exceptions.¹²

What, therefore, are the options for embedding the NDCs into existing national legislation? The first point to note is that Nigeria currently does not have any legislation that directly addresses climate change action in Nigeria. Although there are some legislative instruments with climate co-benefits,¹³ the main instrument guiding climate change action in Nigeria is a policy instrument - the Nigeria Climate Change Policy Response and Strategy (NCCPRS) adopted in 2012.¹⁴ So this can straightaway be identified as a significant gap in Nigeria's response to climate change. Policies are principles or guidelines to help governments achieve a set of objectives, in this case, addressing climate change. Policies, however important, are not enforceable and cannot take the place of legislation.

Is it necessary to have specific legislation on climate change? Framework legislation would formalise Nigeria's approach to addressing climate change and also signal to both Nigerians and others, such as investors, Nigeria's commitment to dealing with climate change. It would also provide direction to government departments and other bodies in relation to climate change matters, as well as legal objectives to be adhered to by all public and private entities (within the context of their existing mandates) towards the achievement of the national climate commitments.

It is therefore worth mentioning at this point, the Climate Change Bill, 2019 (HB.357)¹⁵ a climate change framework bill that has undergone the legislative process several times, but has not received presidential assent and has therefore not been passed into law. This bill, if eventually passed into law, would achieve the objective of consolidating and formalising Nigeria's climate change approach. The bill aims to provide a "framework for the mainstreaming of climate change responses and actions into government policy formulation and implementation."¹⁶

The last on the Bill has not yet been heard, as one of the work streams under the NDC Partnership's Climate Action Enhancement Package (CAEP) support to Nigeria¹⁷ includes the development of an appropriate legal framework for implementation of the NDCs. The assignment is being undertaken by the Climate Change Legal Working Group - a team of lawyers from the public and private sectors, including academia. One of their tasks is to ascertain why Presidential Assent to the Bill was refused and to revise the Bill accordingly. The anticipation is that since this work was the result of a direct request by the government, it will enjoy the support that previous attempts did not have.

11. Nigeria's INDCs, page 11.

12. These exceptions are not set out in the document, as, according to the document, "[a]n assessment of the changes required to the regulatory and legislative framework will be undertaken upon finalization of the INDC." See Nigeria's INDCs, page 11.

13. These are discussed below.

14. National Policy on Climate Change, available at <https://climatechange.gov.ng/wp-content/uploads/2020/09/national-climate-change-policy-1-1.pdf> (accessed 30 October 2020).

15. See <https://www.nassnig.org/documents/bill/10740> (accessed 30 November 2020).

16. The current bill is primarily a framework bill and does not contain specific measures to address climate change. Rather, it creates new (or designates existing) institutions and tasks them with specific responsibilities, such as establishing and managing a national registry for appropriate mitigation actions by public and private entities, and developing a national climate change action plan.

17. See <https://www.ndcs.undp.org/content/ndc-support-programme/en/home/our-work/geographic/africa/Nigeria.html> (accessed 3 December 2020).

Having noted the absence of legislation on climate change in Nigeria, this paper next considers the extant policies and legislations that either deal directly with climate change or have climate change co-benefits. The 2015 NDCs envisage that the implementation of the NDCs would fall under the remit of the NCCPRS. The goals of the NCCPRS are to foster low-carbon, high-growth economic development and build a climate-resilient society.¹⁸ Implementation will be taken forward by existing governance arrangements under the NCCPRS, with coordination being managed by the Department of Climate Change in the Federal Ministry of Environment.¹⁹ In addition, the NCCPRS specifically advocates the establishment of a legal framework for climate change in Nigeria, through an Act of Parliament with provisions for establishing a national climate change agency/commission and other climate change management structures and committees.²⁰

Several policies that have a direct impact on the country's implementation of her NDCs have been developed within the framework of the NCCPRS. In addition to these, there is also specific legislation with direct climate co-benefits that can support the implementation. Some of these policies and legislation include:

- Regarding Nigeria's energy-related contributions, including achieving 30% energy efficiency by 2030, working towards off-grid solar PV of 13GW (13,000MW), and improving the electricity grid:
 - The National Energy Policy;²¹
 - Nigeria's Sustainable Energy for All Action Agenda;²²
 - The National Renewable Energy and Energy Efficiency Policy; and²³
 - The Renewable Energy Master Plan;²⁴
- Regarding ending gas flaring by 2030, the Flare Gas (Prevention of Waste and Pollution) Regulations 2018²⁵ and the Nigerian Gas Flare Commercialization Program (NGFCP);²⁶ and
- Regarding the transportation shift from car to bus, the National Transport Policy. See also the Lagos Bus Rapid Transit (BRT) Transport Program which was launched in 2008 to encourage a move away from the use of cars, motorcycles, light passenger, and heavy-duty passenger buses.²⁷
- Regarding climate-smart agriculture, although the country is just beginning to introduce this concept into its agricultural practices and policies, relevant instruments include:
 - the 2015 National Agricultural Resilience Framework;²⁸ and
 - the Agriculture Promotion Policy for 2016-2020.²⁹

In addition, there has been some work done in this area by some international organizations, such as the Food and Agriculture Organization of the United Nations (FAO). The Federal Government of Nigeria has also undertaken a lot of work within the Agriculture, Forestry, and Other Land Use (AFOLU) sector, including through reducing emissions from deforestation and forest degradation (REDD+) programme.³⁰

As stated above, these policies and legislations have climate co-benefits. Many of them are not specifically targeted at addressing climate change, but at promoting the country's economic and social development. This means that there are aspects of these policies that will not contribute to climate change mitigation.

18. See Third National Communication (TNC) of the Federal Republic of Nigeria, March 2020, available at: https://www4.unfccc.int/sites/SubmissionsStaging/NationalReports/Documents/187563_Nigeria-NC3-1-TNC%20NIGERIA%20-%2018-04-2020%20-%20FINAL.pdf (accessed 29 October 2020), at page 10.

19. Nigeria's INDCs, page 18.

20. See Section 4 of the NCCPRS.

21. Available at https://www.energy.gov.ng/Energy_Policies_Plan/National%20Energy%20Policy.pdf (accessed 28 October 2020).

22. Available at https://www.seforall.org/sites/default/files/NIGERIA_SE4ALL_ACTION_AGENDA_FINAL.pdf (accessed 28 October 2020).

23. Available at <https://www.power.gov.ng/download/NREEE%20POLICY%202015-%20FEC%20APPROVED%20COPY.pdf> (accessed 28 October 2020).

24. See Third National Communication (TNC) of the Federal Republic of Nigeria, March 2020, available at: https://www4.unfccc.int/sites/SubmissionsStaging/NationalReports/Documents/187563_Nigeria-NC3-1-TNC%20NIGERIA%20-%2018-04-2020%20-%20FINAL.pdf (accessed 29 October 2020), at page 133.

25. Available at: <https://ngfcp.dpr.gov.ng/media/1120/flare-gas-prevention-of-waste-and-pollution-regulations-2018-gazette-cleaner-copy-1.pdf> (accessed 28 October 2020).

26. See <https://ngfcp.dpr.gov.ng/about-us/our-mandate/> (accessed 30 October 2020).

27. See Nigeria's TNC, page 146. According to the World Bank, the BRT project has reduced carbon dioxide emissions by 13% and GHG emissions by 20%. See "Lagos' Bus Rapid Transit System: Decongesting and Depolluting Mega-Cities" 8 December 2015, available at: <https://blogs.worldbank.org/transport/lagos-bus-rapid-transit-system-decongesting-and-depolluting-mega-cities-0> (accessed 24 October 2020).

28. Available at: http://data.gov.ng/search/download-file?file=15-05-2019_6824_National+Agricultural+Resilience+Framework.pdf (accessed 4 November 2020).

29. Available at: http://nssp.ifpri.info/files/2017/12/2016-Nigeria-Agric-Sector-Policy-Roadmap_June-15-2016_Final.pdf (accessed on 30 October 2020).

30. See pages 148-150 of Nigeria's TNC. See also Nigeria's Agricultural Insurance Programs and Risk Sharing systems.

For instance, the National Energy Policy includes the objectives of increasing the country's petroleum reserves and production capacity, and of deriving maximum economic benefits from the nation's liquid petroleum resources.³¹ It also aims to resuscitate the country's coal industry.³² Generally, these objectives are not climate-friendly, as they would lead to an increase in greenhouse gas emissions. However, the policy aims to achieve these objectives in as sustainable a manner as possible.³³ It also, for instance, contains policies and objectives on promoting renewable energy usage in the country.³⁴ Therefore, as stated in the NDCs, Nigeria's emissions will continue to grow, due to some of the policies, such as those in the National Energy Policy, that aim primarily to grow the country's economy. However, these policies also contain measures to limit the growth in emissions as much as possible.

To help with the implementation of the NDCs, Nigeria has developed the "Sectoral Action Plans for Nigeria's Nationally Determined Contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC)"³⁵ which contains an NDC implementation plan and the High-Level Road map on Implementation of the NDC. However, this document is not nearly comprehensive or detailed enough to serve as an actual plan for implementation. Crucially, the document does not specify Nigeria's conditional and unconditional mitigation objectives, nor the cost of each type of contribution. It, therefore, requires strengthening in this and other aspects (such as specifying definite or approximate timelines for achieving the different elements of the plan). It also needs to be expanded to cover all relevant sectors, as it currently only covers the agriculture, industry, oil and gas, power, and transport sectors. Other sectors, such as waste and water, are also relevant for both climate change adaptation and mitigation efforts and should be included in Nigeria's implementation.

It is quite clear therefore that there is no dearth of policies and regulations that could, or should, support the achievement of the country's NDCs, despite the lack of specific legislation on climate change; quite the opposite – as anticipated by the NDCs submission, most of the mitigation actions can be implemented under existing instruments. This does not negate the need for more comprehensive climate change legislation in the country.

As highlighted above, legislation is needed to consolidate Nigeria's approach to dealing with climate change. Legislation would also define the roles and responsibilities of various actors including the sub-national governments, to the extent that the Nigerian Constitution permits. Environmental matters (and by extension, climate-related issues) are not on the Exclusive List in the 1999 Constitution (as amended). By judicial interpretation, items not so listed are deemed to be on the Residual (concurrent) List, thereby allowing state governments, through their respective Houses of Assembly, to make laws to manage and regulate environmental/energy matters, including climate change. A typical example is the Rivers State Environmental Protection and Management Law No.7 of 2019. Sections 33 and 34 provide for setting the state's carbon target and carbon budgets with prescribed time frames. Another example is the Cross Rivers State Government, which has established a Ministry of Climate Change with specific mandates and budgetary allocations.

Additionally, the implementation of certain elements of the Paris Framework generally (that is, beyond the implementation of Nigeria's NDCs) would likely require additional legislative or policy instruments not covered by existing instruments. For instance, the current policy and legislative instruments do not adequately deal with the possibility of Nigeria's participation in the cooperative approaches established in Article 6 of the Paris Agreement, including international carbon markets. However, these issues are beyond the scope of this paper, as the focus here is on implementation and updating Nigeria's NDCs, rather than the implementation of the Paris Agreement in general.

In relation to the existing legislation or policies relevant to the implementation of Nigeria's NDCs, the problem has been and continues to be, the lack of enforcement of these laws, policies, or regulations. Developing even more laws or regulations would not make a significant difference unless and until there is actual enforcement of these instruments. Perhaps, the focus of any proposed climate legislation should be to ensure the strengthening of the enforcement mechanisms to align with current national commitments under the Paris Agreement.

What then is the solution? How can the country implement its NDCs? What should the next iteration of the NDCs look like? These questions are considered in the next section.

31. Nigeria's National Energy Policy, pages 9 and 10.

32. Ibid at page 18.

33. Ibid at pages 10-11, and 18-19.

34. Ibid, chapter 5.

35. Available at: <https://climatechange.gov.ng/wp-content/uploads/2020/09/final-nigeria-ndc-sector-action-plans.pdf> (last accessed on 30 October 2020).

5.0 Revising/Updating Nigeria's NDCs

All parties to the Paris Agreement are required to submit updated NDCs in 2020, and these updated NDCs should represent a progression beyond their current NDCs. The first question is “what does a progression actually mean?”

In the simplest form of the word, “progression” simply means an increase, and in the context of the NDCs, it means an increase in the level of countries' ambition. This could be achieved in various ways, such as by countries increasing their current mitigation or adaptation ambition, or by including new mitigation or adaptation measures or objectives in their NDCs. For instance, in *The Heat is On*,³⁶ the authors note the number of countries planning, in their updated NDCs, to “enhance” the ambition of their current plans by further reducing GHG emissions, by increasing their climate adaptation or resilience, or both.³⁷

Countries can also enhance their NDCs by including additional information, such as implementation plans, indicating how they will enable or strengthen the implementation of the previously submitted NDCs. The update could also be to include the latest scientific data or assumptions, trends in emissions, or to include additional information as required by the Paris Rulebook – such as how to improve transparency and understanding.³⁸

It is too early to judge whether or not Nigeria will achieve its current NDCs, as we are only 5 years into the NDC implementation time frame of 2015-2030, and the country has 10 more years to complete implementation.³⁹ But it is appropriate to question whether the country is in a position to take on tougher mitigation objectives and whether a progression beyond its current NDCs necessarily means taking on more ambitious and tougher mitigation objectives.

Nigeria's economic growth outlook for 2020 and immediately after is poor.⁴⁰ In Nigeria, the oil and gas sector is a key source of export revenue earnings and government revenues, with oil prices playing a major role in the rate of economic growth in the country. The volatility of oil prices has therefore affected the country's economy. Due to falling oil prices, government revenues are also expected to fall from 8% of GDP in 2019 to a projected 5% in 2020.⁴¹ Real GDP growth was estimated at 2.3% in 2019, marginally higher than 1.9% in 2018. It was projected to rise to 2.9% in 2020 and 3.3% in 2021.⁴² However, the economy is now expected to contract by about 3% in 2020, due both to falling oil prices and the effects of the global COVID-19 pandemic.

2020 has been an incredibly difficult year for all countries, with the COVID-19 pandemic having a devastating effect on many economies, including Nigeria. It might therefore be premature for a country that is already struggling economically⁴³ to take on more stringent (un) conditional commitments, particularly as it is still uncertain what support the country will receive to meet its existing contributions. However, in revising the NDCs, further win-win opportunities can and should be explored – including policies and measures that would deliver climate goals with development co-benefits. The cost of such opportunities remains important – regardless of their win-win nature, their affordability must be considered so as not to further strain the economy.

36. *The Heat is On: Taking Stock of Global Climate Ambition* (2019) UNDP and UNFCCC.

37. See page 14.

38. *The Heat is On*, page 16.

39. See Sectoral Action Plans for Nigeria's Nationally Determined Contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC), available at <https://climatechange.gov.ng/wp-content/uploads/2020/09/final-nigeria-ndc-sector-action-plans.pdf> (accessed 21 October 2020).

40. See the World Bank report “Nigeria in Times of COVID-19: Laying Foundations for a Strong Recovery,” available at: <http://documents1.worldbank.org/curated/en/695491593024516552/pdf/Nigeria-in-Times-of-COVID-19-Laying-Foundations-for-a-Strong-Recovery.pdf> (accessed on 4 November 2020).

41. *Ibid.*

42. See Nigeria Economic Outlook 2020, by the African Development Bank, available at: <https://www.afdb.org/en/countries-west-africa-nigeria/nigeria-economic-outlook#:~:text=Real%20GDP%20growth%20is%20projected,2020%20and%203.3%25%20in%202021.&text=The%20current%20account%20is%20projected,its%20economy%2C%20particularly%20in%20agroprocessing> (accessed on 4 November 2020).

43. Despite previous steady economic growth, Nigeria still faces a lot of socio-economic and political challenges. See Nigeria's TNC, at pages 2-4, 41-42.

Nevertheless, recovering from the pandemic presents an opportunity to “build back better” and deviate from business-as-usual by, for instance, implementing economic recovery policies that focus on low-carbon development.⁴⁴

Conversely, the argument can be made that since the country's vulnerabilities have been exacerbated by the COVID-19 pandemic, ambitious post-recovery measures should be pursued in the revised NDCs on the condition of further international support. However, given that the economies of most countries have taken a serious hit, developed countries may also not be in the position to provide as much financial support as would be required to assist developing countries to meet their objectives.

In addition, some countries already set themselves quite ambitious NDCs in their first submissions and may find it difficult to set even more ambitious objectives. Even though most countries would want to do more to address the climate change problem, developing countries, in particular, would need finance to match their ambitions.⁴⁵ Nigeria has already stated in its initial NDCs that more work is needed to determine the exact domestic share of its full contribution (that is both conditional and unconditional), as well as the total investment required.⁴⁶ The outcome of this further work and the extent of investment that is actually received will determine Nigeria's ability to implement its initial NDCs.

In summary, Nigeria may not include more stringent mitigation targets in its 2020 NDCs and yet meet the requirement of “progressive” NDCs. There are certain updates that could, and in fact, should be included in these 2020 NDCs and these updates would likely amount to an ‘enhancement’ of its 2015 NDCs. Such updates include:

- Clarifying/specifying its adaptation contributions: currently, the NDCs, although they contain adaptation strategies and actions, is not explicit in outlining adaptation objectives, whether conditional or unconditional. Nigeria's enhanced NDC could include more specific objectives, as well as details of any international support needed to meet these objectives.⁴⁷
- Identifying or clarifying its unconditional mitigation contributions and specifying the anticipated cost;
- Identifying exactly which mitigation contributions it requires international support for, and the type and level of support required;⁴⁸
- Strengthening its implementation plan⁴⁹ and including it in the updated NDCs to show how the country is strengthening its implementation of the NDCs;
- Ensuring a whole-of-society approach that includes all critical actors, especially sub-national governments and other non-state actors;⁵⁰ as well as all relevant sectors; and
- Adopting an appropriate framework to account for emission reductions at the sub-national level.

44. See for example, “Building back better: A sustainable, resilient recovery after COVID-19” by the Organisation for Economic Co-operation and Development (OECD), available online at <https://www.oecd.org/coronavirus/policy-responses/building-back-better-a-sustainable-resilient-recovery-after-covid-19-52b869f5/> (accessed on 15 February 2021). See also the Race To Zero Campaign led by the High-Level Climate Champions for Climate Action, which aims to build momentum around the shift to a decarbonized economy. See <https://unfccc.int/climate-action/race-to-zero-campaign#eq-6> (accessed 15 February 2021).

45. The Heat is On, page 16.

46. Nigeria's NDCs, page 18.

47. See for instance, Intended Nationally Determined Contribution (INDC) for the Republic of Chad, available at: https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Chad%20First/INDC%20Chad_Official%20Version_English.pdf (accessed on 28 October 2020), at page 12. This contains a table of Chad's conditional and unconditional adaptation objectives and the cost involved.

48. Climate Ambitions: An analysis of nationally determined contributions (NDCs) in the ACP Group of States, page 27. See https://intraacpgccaplus.org/wp-content/uploads/2018/11/NDC_long_report_EN.pdf (accessed on 30 October 2020).

49. Including efforts to strengthen the country's legal framework for climate change, through, inter alia, the proposed Climate Change Bill.

50. Nigeria's Sectoral Action Plans only cover the agriculture, industry, oil and gas, power and transport sectors. They should be expanded to include other relevant sectors such as water and waste.

6.0 Conclusion

This paper has examined Nigeria's legal framework for climate change and considered its adequacy. It has shown that although there are some gaps, overall there are legislative and policy instruments available to guide the implementation of the country's current NDCs, although these do require strengthening.

One point to note, however, is that the ideal situation would be to adopt an overarching climate change legal framework, in the form of enacted legislation. This would help streamline all the policy and institutions relating to climate change within the country, and also provide a legal basis for further action on climate change. Nevertheless, the current lack of enacted legislation (as opposed to a strategy document) should not hinder the implementation of the NDCs, because, as shown above, there is sufficient basis for the implementation of most of the objectives contained in the NDCs.

Secondly, it also concludes that the updated NDCs due to be submitted this year (2020) may not contain more stringent mitigation objectives and yet meet the requirement of "progressive" objectives. It can contain the following, and still meet this requirement:

- Specific adaptation objectives, whether conditional or unconditional and related costs/financial support required;
- Specific mitigation objectives, whether conditional or unconditional and related costs/financial support required; and
- The country's NDC implementation plan and road-map.

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