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An Overview of the International Legal Framework for the Control of Automobile Emissions in Nigeria

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Abstract

The Nigerian transport sector is a major contributor to greenhouse gas (GHG) emissions, with road transport accounting for a significant share of carbon dioxide (CO_2) and other pollutants. The major contributors to this disturbing phenomenon are emissions emanating mostly from the exhaust of cars, often referred to as automobile or vehicular emissions. Automobile emissions have continued to generate unpleasant challenges to the Nigerian environment. Some of these challenges include the risk of lung cancer and respiratory tract diseases. In response to this phenomenon, Nigeria has signed and ratified treaties and agreements to address vehicular emissions. Despite these legal provisions, the problem persists. This paper, therefore, examined the existing International legal framework for the control of automobile emissions in Nigeria. The doctrinal method of research was adopted to analyse international legal instruments, judicial decisions and regulatory policies relevant to automobile emissions control. Findings revealed significant legal and institutional gaps, including weak enforcement, outdated emission standards, and limited incentives for clean transportation technologies, due to the lack of domestication of treaties and agreements. Hence, the paper recommended the need for Nigeria to domesticate her environmental treaties by incorporating them as part of her national law to ensure effective implementation of emission control in Nigeria.

Keywords: Overview, International, Legal Frameworks, Control, and Automobile Emissions

INTRODUCTION

Nigeria possesses a vast and dynamic transportation sector that is central to Nigeria's economic advancement and societal development.[1] Boasting of a populace exceeding 200 million people and a landmass covering 923,768 square kilometers, Nigeria's transportation system comprises an intricate network of roads, railways, ports, airports and inland waterways.[2] A critical enabler of trade, mobility, and connectivity,[3] this extensive network majorly facilitates the movement of goods, people and services across the nation, connecting urban centers with rural areas and supporting various industries, including agriculture, manufacturing and commerce.[4]

Even though the transport sector is crucial for the nation's economy, it has been identified as a major contributor to greenhouse gas (GHG) emissions worldwide.[5] According to the Intergovernmental Panel on Climate Change, transportation accounts for approximately 14% of global GHG emissions, with light-duty vehicles being the predominant source.[6]

According to the International Energy Agency, the transport sector is one of the dominant emitters of greenhouse gases (GHG), accounting for approximately 24 % of global emissions due to tailpipe emissions from internal combustion engine vehicle.[7] Several studies[8] have shown that motor vehicle exhaust releases smog,[9] but most predominantly carbon dioxide (CO_2)[10], which intensifies the impact of climate change with a global contribution of about 7.3 billion metric tons of carbon dioxide emission in 2020 alone.[11] These emissions are linked to a number of diseases, including respiratory[12] and cardiovascular diseases such as asthma and lung cancer.[13] The World Health Organization (WHO) estimates that approximately 460,000 people die prematurely each year as a result of exposure to these harmful gases.[14]

An automobile can be defined as a four-wheeled self-propelled motor intended for the transportation of people or goods, commonly referred to as "car" in everyday parlance.[15] In this study, automobile refers to passenger cars, trailers, trucks, tankers, lorries and buses which make up the majority of the Nigerian transport system. For the avoidance of repetition of the term 'automobile,' it would be used interchangeably with words like "vehicle", "vehicular," and "motor vehicle," which are all synonyms for the term.

The imperfect combustion process is usually composed of greenhouse gases (GHGs) such as carbon dioxide (CO_2), nitrogen oxides (NOx), particulate matter (PM) and volatile organic compounds (VOCs).[16] The escape of these gases from vehicles is what is known as automobile emission and it's a well-known constituent of air pollution.[17] The emission of these gases into the atmosphere on a daily basis not only

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[1] C.E Akujor, 'Decarbonisation of the Transport Sector in Nigeria', *Environmental Health Insights* [2022] 16, 1-7.
[2] A.O Oluwakoya and S.D Ogundipe, 'Spatiotemporal Correlation Between Railway Transport Development and Land Use Romanian Journal of Transport Infrastructure' *Romanian Journal of Transpor*t, [2021] 10 (2), 1-19.
[3] A.O Oluwakoya, 'A Comprehensive Assessment of Transportation Emissions in Nigeria: Trends, drivers, and impacts', African Journals Online : Proceedings of the Nigerian Academy of Science,[2024] 16(1), 61-71.
[4] *Ibid*.
[5] Akujor (n 1)
[6] Hannah Ritchie, Pablo Rosado and Max Roser, 'CO_2 and Greenhouse Gas Emissions' Our world in Data (United Kingdom 2023).< CO_2 and Greenhouse Gas Emissions - Our World in Data> accesed 29 January 2025.
[7] Aba and others, 'Energy Transition Pathways for the Nigerian Road Transport: Implication for energy carrier, Powertrain Technology, and CO2 Emission', *Sustainable Production and Consumption* [2023] 38, 55–68.
[8] A.A Adeyanju, 'Effects of Vehicular Emissions on Human Health', Journal of Clean Energy Technologies [2018] 16 (6) 411-420; F.I Abam and G.O Unachukwu, 'Vehicular Emissions and Air Quality Standards in Nigeria' *European Journal of Scientific Research* [2015] 34(4) 550-560.
[9] Smog is a noxious mixture of gases and particles, primarily ground level ozone (O3) and particulate matter.
[10] M.O Raimi and others, 'Creating the Healthiest Nation: Climate Change and Environmental Health Impacts in Nigeria', Sustainability in Environment [2021] 6 (1) 61-122; S.B Adekunle and M.F Alokpa, 'An Overview of Buhari's Economic Recovery and Growth Plan 2017-2020' *African Research Review* [2018] 12 (3), 25-37.
[11] Akujor (n 1).
[12] L.Manisalidis and others, 'Environmental and Health Impacts of Air Pollution: A Review', F*rontiers in Public Health* [2020]8,1-13.
[13] E.O Enakireru and G.W Ekakitie, 'Appraisal of the Legal Framework and Regulation on Automobile Emissions: Nigeria Perspectives'*Journal Of Environmental Law & Policy* [2024] 4(3), 1-19.
[14] *Ibid*.
[15] Merriam-Webster Dictionary of English Language (Since 1828) < AUTOMOBILE Definition & Meaning - Merriam-Webster> accessed 22 February 2025.
[16] Adeyanju (n 8).
[17]S.Obebe and A.Okolo and P.P Yusuf,' Automotive Emissions: Sources, Environmental Effects, and Control Measures'*International Journal of Innovative Science and Research Technology* [2021] 6(4), 288-293.

exacerbates climate change but also poses severe health risks including respiratory diseases, cardiovascular issues, and premature death.[18]

To curb the impact of this problem, the concept of automobile emission control has evolved globally. Vehicular emission control refers to the strategies and mechanisms employed to abate emissions from automobiles. These strategies and mechanisms may include the regulation of vehicle emission sources through the enactment of laws and policy formulations.

This paper seeks to highlight instruments and initiatives on automobile emission mitigation at global and regional levels of environmental governance. Globally, different initiatives have been taken by the United Nations and other regional bodies towards securing air quality and controlling emissions of dangerous substances that deplete the atmosphere. These initiatives have led to the development of international instruments which have been adopted and ratified in different countries across the globe, including Nigeria.

While there would be heavy focus on the influence of these international laws, this paper would also throw light on the process of domesticating these instruments in Nigeria. It shall also highlight the challenges, if any, in the process of adopting these laws. In all, the main aim of this paper is to outline and carefully analyze the international legal instruments, judicial decisions and regulatory policies relevant to automobile emission control.

GLOBAL INSTRUMENTS FOR AUTOMOBILE EMISSION CONTROL IN NIGERIA

Multilateral environmental agreements of some sort have been in place for about a century[19] but these instruments only began to flourish in the last decades, especially after the Stockholm Conference of 1972.[20] The Stockholm Conference is credited with laying 'the foundations of the international system of environmental law.'[21] Studies show that since then there are over 700 multilateral environmental agreements in place.[22] Reasons for the increase include the response to the gravity of environmental problems and a growing understanding that environmental issues are often global. Therefore, solutions and tools to deal with them should also be global.[23]

Most of these agreements are on air quality management, marine environment protection[24] and even hazardous waste management.[25] In this article our major focus is air quality management, particularly as it relates to vehicular emission control. The relevant instruments to Nigeria include:

The United Nations Framework Convention on Climate Change (UNFCCC) 1992[26]

In 1988 the World Meteorological Organization (WMO) and the United Nations Environmental Programme (UNEP) established the Intergovernmental Panel on Climate Change (IPCC).[27] The IPCC is a scientific intergovernmental body and an organ of the United Nations, tasked with assessing the risk of climate change caused by human activity.[28] The first report of IPCC in 1990 was what eventually led to the adoption of the UNFCCC at the United Nations Conference on Environment and Development (UNCED),[29] at Rio de Janeiro in 1992.[30] It came into force in 1994 and has since been ratified by 198 countries.[31]

[18] Abam and Unachukwu (n 8).
[19] Ministry of Natural Resources and Environment (Vietnam), MEA Handbook Vietnam (Ministry of Natural Resources and Environment, Hanoi 2017) 12.
[20] *Ibid.*
[21] (n 19).
[22] (n 12)
[23] (n 12)
[24] Like the United Nations Convention on the Law of the Sea 1982.
[25] Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 1989.
[26] United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107.
[27] C.J Aleru, 'Climate Change Under the Nigeria Petroleum Industry Act (Pia) 2021'*African Journal of International Environmental Law* [2023]7, 87-98.
[28] *Ibid*
[29] Also known as the Earth Summit.
[30] *Ibid*
[31] O.A. Fagbohun, 'Law and Climate Change in Nigeria' (Paper presented at the Faculty of Law, University of Ilorin Workshop, Ilorin, 13 May 2010) 14.

The UNFCCC is the most acknowledged international agreement on climate change and provides the umbrella for the global response to climate change.[32] The agreement is based on the concept of "common but differentiated responsibility". This concept recognises the need for global actions while also taking into cognizance the differing levels of obligations placed on industrialised and developing countries.[33]

The main objective of the UNFCCC is to stabilize greenhouse gas concentrations at a level that prevents dangerous interference. To achieve this, the Convention differentiates between mandatory commitments for all Parties and commitments that either only developed Parties or only developing country Parties have to comply with.[34] The Convention divides countries into two main groups, namely: i. Industrialised countries (41 countries), ii. Developing countries (145 countries, including Nigeria).[35]

The convention also mandates member states to enact laws for the regulation of climate change activities, especially in developing countries whose economies depend on fossil oil. It also gives the right for states that survive on the same to exploit their natural resources in line with their obligations under the convention. The preamble of the convention raises concerns about human activities which have adverse effects on the ecosystem and humankind.[36]

Nigeria ratified the UNFCCC in 1994 and was among the first group of developing countries that ratified the convention.[37] By way of general commitments, countries were to compile inventories of GHG emissions caused by human activities, compile inventories of activities that remove GHGs from the atmosphere (sinks), develop regional programmes to mitigate climate change; develop and transfer technologies, practices and processes to control GHGs in all relevant industrial sectors (including energy, transport, agriculture, forestry, and waste management); promote mechanisms to remove GHGs from the atmosphere, take climate change considerations into account in formulating and implementing social, economic and environmental policies .

As a launching pad for potential continuous actions to address climate change,[38] the UNFCCC established a Conference of the Parties (COP), a law-making body that meets annually and is charged with devising ways to implement the UNFCCC's goals.[39] One of the foremost Conferences of the Parties took place in Kyoto, Japan, and eventually led to the adoption of the Kyoto Protocol.

The UNFCCC has since been perceived to have both positive and adverse implications for Nigeria as a developing economy. It is expected that emission control measures, which will reduce dependence on oil by developed countries, would bring low consumption of fossil fuels and consequently low prices[40] for oil exports from developing countries like Nigeria. Equally, fears have been raised about the likelihood of the relocation of energy-intensive industries from developed countries to developing countries.[41]

Specifically, the Convention singled out, among other areas of concern, 'countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products'. This addresses the situation in Nigeria, where the economy depends on the exportation of oil and domestic consumption of refined petroleum products.

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[32] C.J Aleru, 'Climate Change Under the Nigeria Petroleum Industry Act (Pia) 2021'*African Journal of International Environmental Law* [2023]7, 87-98.
[33] *Ibid*
[34] *Ibid*
[35] *Ibid*
[36] O.J. Olujobi and I.S. Odogbo, 'Strategic Evaluation of the 2021 Nigeria Climate Change Act: Surmounting Challenges, Paving the Way for Success, and Envisioning Future Trajectories' *Social Sciences & Humanities Open* [2024] 10,1-11.
[37] A. Umar and others 'A Review of Implementation of United Nations Framework Convention on Climate Change, Other Related Instruments and the Implication for Sustainable Development in Nigeria '*Kebbi Journal of Economics and Social Science* [2019] 2(1),44–49.
[38] *Ibid*
[39] Aleru (n 32).
[40] *Ibid*.
[41] *ibid*.

The relevant and operative provisions of the UNFCCC which have effect in the control of emissions in Nigeria include Article 2. It set the overall goal of the Convention that is, the stabilization of the greenhouse gas concentrations in the atmosphere at a level that prevents dangerous anthropogenic interference with the climate system. The road transport is a major and growing source of CO2 and other GHGs in Nigeria. Controlling vehicle emissions therefore is a direct means of advancing the Convention's core objective. This provision also provides a normative foundation for Nigeria's transport related climate policies.

Article 6 is also relevant and instructive to Nigeria control of emissions, it promotes education, training and public awareness related to climate change. These include general campaigns on vehicle maintenance, fuel efficiency and reduction of excessive emissions from poorly maintained vehicle.

Article 3 which provide that States should protect the climate system on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. This provision is also relevant to Nigeria, being a developing country it is not subject to rigid emissions reduction targets.

One of the shortcomings of the UNFCCC, however, was that it did not establish greenhouse gas emission targets or any sector-specific target for the control of emissions like vehicular emissions emanating from the transport sector.

The Kyoto Protocol 1992[42]

In furtherance of the objectives of the UNFCCC, which is to stabilise greenhouse gas concentrations in the atmosphere,[43] was the adoption of the first legally binding agreement, which advocates taking concrete steps and binding commitments to reduce greenhouse gas (GHG) emissions.[44] This agreement, known as the Kyoto Protocol, was adopted in Kyoto, Japan, in 1997. In 2001, a later conference of the parties at Marrakesh in Morocco adopted more detailed terms and rules for the realisation of the objectives of the Protocol.[45] It came into force on 16 February 2005.[46]

The Kyoto Protocol is relevant to Nigeria's control of automobile emissions. Article 2 encourages limitation or reduction of greenhouse gas emission from transport, promotion of energy efficiency and cleaner technologies. This provides the policy template for Nigeria in adopting voluntarily the fuel quality standards, vehicle emissions regulations, promotion of cleaner vehicles and public transport.

Again, Article 10(b) requires all parties to formulate and implement programmes to mitigate climate change. Address transport-related emissions, including road transport. In Nigeria, this provision influences or supports vehicle emissions policies, reduction of emissions from cars, buses and trucks, and cleaner fuel and efficiency measures.

The protocol aims to reduce the presence of greenhouse gases (GHG) in the atmosphere. In so doing it recognised six gases namely, carbon dioxide (CO2), methane (CH4), nitrous oxide (N2), hydro fluorocarbons (HFCs), per fluorocarbons (PFCs) and sulphur hexafluoride (SF6).

Identifying 37 industrialised nations, the protocol set binding targets for the reduction of greenhouse gases for the period 2008 to 2012.[47] Countries were grouped into Annex I (Developed Countries) and Non-Annex I countries (developing economies). The annex 1 countries that ratified the Kyoto Protocol were assigned maximum carbon emission levels for specific periods and participated in carbon credit trading.[48] If a

[42] The Kyoto Protocol to the United Nation Framework Convention on Climate Change 11 December 1997 Treaty Series Vol. 2304, 148.
[43] See Particularly Article 3 of UNFCCC
[44] Damilola S Olawuyi, 'Beautifying Africa for the Clean Development Mechanism: Legal and Institutional Issues Considered' in Benjamin J Richardson, Yves Le Bouthillier, Heather McLeod-Kilmurray and Stepan Wood (eds), Climate Law and Developing Countries (Edward Elgar, 2009) ch 11, 1-41.
[45] H.Ijaiya, 'Legal and Institutional Framework for Achieving Sustainable Development in Nigeria through the Clean Development Mechanisms' *Botswana L.J* [2015]46,20-21
[46] *ibid*
[47] *ibid*.
[48] *ibid*

country emitted more than its assigned limit, then it would be penalised by receiving a lower emissions limit in the following period.

The Kyoto Protocol recognised that developed countries are principally responsible for the current high levels GHG emissions in the atmosphere as a result of more than 150 years of industrial activity. As such, the protocol placed a heavier burden on developed nations than less developed nations.[49] The Non-Annex 1 (Developing nations) were to comply voluntarily and for this reason some of the heavily industrialised nations of today including China and India, were exempted from the Kyoto agreement altogether. Non-Annex 1 nations participated by investing in projects designed to lower emissions in their countries.

For these projects, developing countries earned carbon credits which they could trade or sell to developed countries, allowing the developed nations a higher level of maximum carbon emissions for that period. In effect, this function helped the developed countries to continue emitting GHG vigorously.[50] While parties are expected to adopt national measures to meet their targets under the UNFCCC, the Kyoto protocol provides three market-based mechanisms [51]to assist them to meet their targets. These mechanisms are Emission Trading, Clean Development Mechanism and Joint Implementation.

a. Emission trading (ET): In a situation where a country did not exhaust its emission permit, the country could permit the remnants to be transferred to another country in need of credits. This is carried out under a system called carbon marketing, emission trading and cap and trade.[52] A carbon credit is a permit that allows the holder to emit a certain amount of greenhouse gases. For example, one credit permits the emission of a mass equal to one ton of carbon dioxide.

The holder of carbon credits was allowed to continue to pollute up to a certain limit and that limit is reduced periodically.[53] Meanwhile, the holder may sell any unneeded credits to another that needs them. All of these different scenarios of trading is what is known as emission trading.

b. Clean Development Mechanism (CDM): The CDM is an incentive to the Annex 1 countries which enables the parties to establish carbon sink projects like afforestation, reforestation, renewable energy generation projects and energy efficient technologies in developing countries. The main objective of the CDM is 'to assist parties not included in Annex 1'[54] to achieve sustainable development, to contribute to the ultimate objective of the convention and to assist parties achieve compliance with quantified emission and reduction commitments under the Protocol.[55]

c. Joint Implementation Mechanism (JI)**:** In order to meet their obligations under Article 3 of the Convention, the Joint Implementation mechanism enables any Annex 1 party under Article 6 of the protocol is to transfer or acquire emission reduction units from any other party. This is however limited to projects aimed at reducing anthropogenic emissions by sources or for enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy.

One party will finance projects or measures reducing the greenhouse gas emissions in another country and this country will transfer the emission reduction units, in whole or in part, to the investor party by means of an agreement. The host country benefits from the funding and the new technology.

[49] N.A Izoukumor, 'Nigeria's Climate Change Act, Conditional and Unconditional Nationally Determined Contributions, and the Principle of Common but Differentiated Responsibilities' *Environmental Law Review* [2024] 1–19.
[50] Damilola S Olawuyi, 'Beautifying Africa for the Clean Development Mechanism: Legal and Institutional Issues Considered' in Benjamin J Richardson, Yves Le Bouthillier, Heather McLeod-Kilmurray and Stepan Wood (eds), Climate Law and Developing Countries (Edward Elgar, 2009) ch 11, 1-41.
[51] See article 12, Kyoto Protocol to the United Nations Framework Convention on Climate Change.
[52] *ibid*
[53] *ibid*.
[54] Article 12 of the Kyoto Protocol.
[55] *ibid* 12 (2).

For the financing party, JI projects were more cost-effective than domestic emission reduction measures.[56] With regard to mitigating the climate change, it is irrelevant in which country the reductions in greenhouse gas emissions take place, as long as it is an Annex 1 country. Joint Implementation and Emission Trading provide opportunity for Annex I countries to meet their obligations under the convention and the protocol. The arrangement is however, subject to the approval of concerned parties and providing a reduction in emissions sources.[57]

Note that of all three mechanisms it is evident that the CDM is the most beneficial to a developing country like Nigeria. In Nigeria, the cardinal feature of the operation of the CDM mechanism is targeted emission control reduction, particularly gas flaring, through gas utilisation. This is done by utilising the gases that would have been flared or vented for energy production and use. There are CDM projects scattered across Nigeria.[58]

Across the globe, the CDM has enabled projects like mass transit electrification, biofuel use, and improved urban transport in developing countries. These projects indirectly targeted automobile emissions by shifting transport to lower-emission modes. Overall, countries ratifying the protocol often developed vehicle emission standards, fuel efficiency regulations, and alternative fuel promotion policies. For example, the EU introduced stricter Euro Emission Standards, Japan improved fuel economy benchmarks and the US aligned some policies in response to global pressure.

The extension of the Kyoto protocol known as the Doha Amendment[59] established a second emission reduction commitment period for its industrialised countries that ran from 2013 to 2020. The greenhouse gas ("GHG") reduction obligation was also reallocated.[60] Some applauded the output of this Conference, expressing relief because of the extension of the Protocol.[61] However, others stood skeptical, pointing out that the absence of the world's leading countries, including the United States ("US") and China, in the Protocol may not have been an effective solution to climate change.[62]

To enter into force, the Doha Amendment needed 144 out of 192 signatories to submit their formal acceptance of the Amendment. The Amendment remained in coma until Nigeria brought it to life on October 2nd 2020, when Nigeria became the 144th signatory to the Doha Amendment. In all, the Doha Amendment of the Kyoto Protocol had a short life span of two months, as no further amendment was made to make room for a third commitment period.

Upon the expiration of the 1st commitment period the following deficiencies however there undermined the legitimacy of how these nations met their targets: (a) the Protocol's inability to fully implement its emissions trading scheme[63] (b) its exemption of developing nations from binding emissions reductions (against the backdrop of China and India being developing nations and also among the world's top

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[56] *ibid* Article 3.
[57] *ibid*
[58] 1.The Kwale Oil-Gas Processing Plant (Kwale Recovery of Associated Gas Project). 2. The Asuoku-Umutu Marginal Field Gas Recovery Facility (Asuoko/ Umutu Gas Recovery and Marketing Facility) 3. Efficient Fuel Wood Stoves for Nigeria is an Afforestation and Reforestation (AR) CDM project, which targets to distribute about 11,000 efficient wood stoves (SAVE80) at subsidised prices to Nigerian States in the Guinea Savannah zone. 4 The Municipal Solid Waste (MSW) (Municipal Solid Waste Composting) Facility in Ikorodu, Lagos State, project. 5.The Afam Combined Cycle Gas Turbine Power Project.6. The Natural Gas Based Power Project of TPUL, which is located in Ogun State.7. The Ovade-Ogharefe Gas Capture and Processing Project.
[59] See the Doha Ammendment of 2012.
[60] O.K Adeola and O. Abifarin,'Legal Framework for Combating Climate Change in Nigeria' *Kutafin Law Review* [2023] 9(3),396-414.
61 Staff Writer, 'What Doha Did: No Progress Today, but a Slightly Better Chance of Progress Tomorrow' The Economist (15 December 2012) <http://www.economist.com/news/international/21568355-no-progress-today-slightly-betterchance-progress-tomorrow-what-doha-did;> accessed 15 May 2025.
62 L.Gray, 'Doha: Climate Change Deal Limping towards 'Disappointing' Conclusion' The Telegraph (7 December 2012) < http://www.telegraph.co.uk/earth/environment/climatechange/9730981/Doha-Climate-change-deal-limpingtowards-disappointing-conclusion.html> accessed 23 June 2025.
[63] A.M Rosen, 'The Wrong Solution at the Right Time:The Failure of the Kyoto Protocol on Climate Change' *Policy and Politics* [2015] 43(1), 30-58.

polluters)[64](d) Canada's eventual withdrawal from the Protocol(e) Australia's delayed ratification of the Protocol[65] and the United State's refusal to ratify the Protocol.[66]

Furthermore, an observation of the CDM projects registration reveals how the CDM disproportionately benefited developing nations in Asia and the Pacific, as opposed to all developing nations as intended by the Protocol. As of 2025, there are still debates about whether the Kyoto Protocol met its mandates or goals. It will be right to say that the protocol had and has a lasting Impact for most countries that were signatory to it.

The Copenhagen Accord 2009

In December 2009, parties to UNFCCC met in Copenhagen, Denmark, for the 15th Conference of the Parties.[67] The idea of limiting the rise of global temperature to no more than 2° Celsius was coined.[68] Each party to the conference set its emission target voluntarily by 2020 and proposed mitigation actions.[69] Developed countries were committed to assisting developing countries financially. The funding covers actions for adaptation and mitigation, including REDD+ program (Reducing Emissions from Deforestation and Forest Degradation), capacity building, and technology development and transfer.[70]

The Copenhagen Accord though not a binding treaty, still it is very relevant to Nigeria's emissions control framework, especially for automobiles, energy, and national climate policy. Paragraphs 1-2 of the Accord recognise climate change as one of the greatest challenges of our time. It also endorses the goal of limiting global temperature increase to below 2°C. Nigeria accepted this objective and influenced it climate policies, vehicle emission standards and energy transition plans. Paragraph 5 of the Accord influenced Nigeria to monitor emissions from key sector, including transport, report emissions data to the UNFCCC and develop national greenhouse gas inventories. This further influenced Nigeria's environmental regulatory agencies such as NESREA in setting reporting standards.

A major breakthrough in the global effort to combat climate change occurred in 2009. The Copenhagen accord includes emission reduction commitments from all major emitters, including the United States, China, India and Brazil and provides for an international review of both the goals and actions of developed and developing countries.[71]

Under the Copenhagen Accord, countries agreed to establish the multilateral Green Climate Fund (GCF) to help mobilise funding in developing countries to reduce emissions and adapt to the impacts of climate change.[72]Countries agreed to help mobilise $100 billion by 2020 through public and private financing to assist developing countries in reducing emissions and adapting to climate change.[73] As of 2022 close to $11 billion had been pledged to the GCF from 31 countries, including a $3 billion pledge from the United States.[74]

The Paris Agreement 2015

On 12th December, 2015, an agreement was reached on issues bordering on climate change, by 196 parties at the 21st Conference of the Parties (COP21) held in Paris; this is known as the 'Paris Agreement'.[75] This

[64] *ibid.*
[65] *ibid*.
[66] *ibid*.
[67] Aleru (n 32).
[68] Ibid.
[69] H.David and C.Roger, 'Three Models of Global Climate Governance: From Kyoto to Paris and Beyond' *Global Policy* [2018] 9 (4),527-537.
[70] Wytze Van der Gaast, 'Towards a Future Climate Policy—From the Kyoto Protocol to the Paris Agreement' in International Climate Negotiation Factors (Springer, 2016) 91–123.
[71] *ibid*
[72] Salisu,Zuhra and Ummusalama ''Examining the Impact of Nigeria's Participation in the Paris Agreement Towards Climate Change Policy' *Zamfara Journal of Politics and Development* [2022]3(3), 1-11.
[73] *ibid*.
[74] *ibid*.
[75] Akujor (n 1).

agreement in Paris was built on the foundations of the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol and the Copenhagen Accord. Though the Paris Agreement does not regulate automobile emissions directly in Nigeria, but it creates binding and guiding obligations that require Nigeria to control emissions from sectors like transportation.

The Paris Agreement is a legally binding agreement[76] and it entered into force on November 4, 2016.[77] The goal of this remarkable agreement is Article 2(1)(a) which provides that States or Parties shall hold the increase in global average temperature to well below 2°C, and pursue efforts to limit it to 1.5°C. It limits global warming to below 2°C, preferably 1.5°C, compared to pre-industrial levels.[78] In line with this the UN developed 17 Sustainable Development Goals (SDGs), agreed to by 193 countries in 2015.[79]

The main novelty of the Paris Agreement is the introduction of the Nationally Determined Contribution (NDC) which gives both developed and developing countries the power to pledge voluntarily certain levels of mitigation targets and domesticate the same.[80] The NDC involves mitigation, adaptation, GHG sinks conservation and reservoir enhancement[81] It also includes market and non-market based approaches of mitigation outcomes through a 5-year cycle of collectively and increasingly determined climate actions.[82]

Article 4(1) also provides that parties shall aim to reach global peaking of greenhouse gas emissions as soon as possible and achieve rapid reductions. Nigeria is therefore obligated to reduce GHG emissions from petrol and diesel vehicle, commercial transport fleets and vehicle inspection and maintenance.

Under the Paris agreement, governments are to voluntarily design, personalise and adopt nationally based commitments as the basis to attain their climate goals. The Paris Agreement outlines three different kinds of support: finance, technology development and transfer, and capacity building. The commitments are not specific, especially for developing country parties.[83]

The Agreement further provides that subsequent NDCs of signatories to the agreement should be strengthened within five years, commencing from the year 2015

Net-zero emission must be achieved in the second half of this century and the UNFCCC agree to implement their NDC to achieve the long-term temperature goal.[84] The stringency of mitigation measures disclosed in each signatory's NDC is expected to increase with each update to ensure signatories attain the highest possible ambition.[85]

As a means of ensuring this goal is met, the Paris Agreement takes a proactive measure to financial flows.[86] For climate action and adopts a hybrid of a "top-down and bottom up" implementation structure.[87] This allows signatories to set self-imposing binding commitments in their NDCs in line with their domestic realities and communicate measures employed to achieve emissions reduction and peaking usage of GHGs.[88]

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[76] O.D Bello, 'Decarbonizing Nigeria's Oil and Gas Industry: Strategies for Achieving Net-Zero Carbon Emissions' *IRE Journals* [2024]8(6)379-390.
[77] Adeola and Abifarin (n 61).
[78] E.Papadis and G.Tsatsaronis, 'Challenges in the Decarbonization of the Energy Sector' *Energy (Elsevier)*[2020]205, 1-15.
[79] *ibid*
[80] Olujobi and Odogbo (n 36).
[81] W. Wimbadi and R. Djalante, 'From Decarbonization to Low Carbon Development and Transition: A Systematic Literature Review of the Conceptualization of Moving Toward Net-Zero Carbon Dioxide Emission (1995-2019)', *Journal of Cleaner Production* [2020] 256 (120307), 1-32.
[82] Akujor (n 1).
[83] Ministry of Natural Resources and Environment (Vietnam)(n 19).
[84] N.Höhne and others,'The Paris Agreement: Resolving the Inconsistency Between Global Goals and National Contributions' *Climate Policy* [2017] 17(1),16-32.
[85] *ibid.*
[86] Popovski V, '"Hard" and "Soft" Law on Climate Change: Comparing the 1997 Kyoto Protocol with the 2015 Paris Agreement' in Popovski Veselin (ed), The Implementation of the Paris Agreement on Climate Change (1st edn, Routledge 2018) 24.
[87] A top-down approach occurs when an agreement defines policies and measures its signatories must undertake, whilst a bottom-up approach occurs when parties to an agreement are allowed to define their own unilateral commitments within the scope of the general agreement.
[88] *ibid.*

Academics believe that the intent behind the Paris Agreement's implementation structure, as opposed to the Kyoto Protocol implementation structure, recognised that "climate change implicates virtually every aspect of domestic policy and raises huge domestic sensitivities" and the assumption that "member nations know best how and when they can meet emissions targets".[89]

Furthermore, Article 6 paragraphs 1 - 3 create an avenue for collaboration amongst member nations towards meeting the emissions cuts required in their respective NDCs, through bilateral trading of carbon credits referred to as "Internationally Transferred Mitigation Outcomes" (ITMOs), provided such trading is subjected to robust and transparent accounting measures to ensure environmental integrity is attained through this initiative.[90] There will be no tax imposed on such bilateral trading of ITMOs between member nations.[91]

Article 6 paragraphs 4 – 6 establishes an international mechanism (informally known as the Sustainable Development Mechanism (SDM)) within the regulatory ambit of the UN to incentivise developed member nations, and public and private entities to undertake emissions reduction activities in developing member nations.[92] Quite like the CDM under the Protocol, the SDM is based on the understanding that it may be cost-effective for developed member nations to carry out emissions reduction activities in developing member nations and apply the generated ITMOs towards meeting their NDC emissions target.

Nigeria signed the Paris Agreement on September 22, 2016, and ratified it on May 16, 2017. In its NDC Dated 29 July 2021, Nigeria committed to a 20% unconditional and 45% conditional reduction in GHG emissions by 2030, relative to business-as-usual levels. The transport sector is a key focus area in Nigeria's NDC, highlighting the importance of international frameworks in shaping national policies

As a Party to the Paris Agreement, Nigeria has made key commitments aimed at reducing GHG emissions to mitigate climate change.[93] As a signatory to the Paris Agreement, Nigeria is required to "prepare, communicate, and maintain" successive nationally determined contributions (NDCs) that it intends to achieve. Nigeria disclosed its Nationally Determined Contribution (NDC) on 28th September 2015 which was initial called INDC[94]

In the 2015 NDC, Nigeria targeted a 20% reduction in its emissions under the "Unconditional NDC" if no external support is received. However, with international assistance, Nigeria pledged a 45% emissions reduction below its business-as-usual level by 2030. As stipulated by the Paris Agreement, Nigeria's NDC was revised and updated in 2021 to reflect a higher degree of ambition.

In the updated NDC dated the 29 July 2021, Nigeria maintains its unconditional pledge of lowering its emissions to 346 MtCO2eq but offers to pursue a more ambitious conditional pledge of lowering its emissions to 241 MtCO2eq, i.e., 47% below the business as usual, and a lower absolute GHG emissions level than the one stated in the 2015 NDC.

Some emission control measures that the revised NDC enshrined to meet the conditional NDC target includes;

i. Ending gas flaring by 2030.
ii. Elimination of diesel and petrol generators by 2030.

[89] Ifeanyichukwu Jonathan Ezeumeh, Achieving a Low Carbon Economy in Nigeria via the Climate Change Mechanisms in the Paris Agreement (LLM Thesis of University of Calgary, Alberta, Canada 2023).
[90] *ibid.*
[91] *ibid.*
[92] Romany M. Webb and Jessica A. Wentz, Human Rights and Article 6 of the Paris Agreement: Ensuring Adequate Protection of Human Rights in the SDM and ITMO Frameworks (Sabin Center for Climate Change Law, Columbia Law School, May 2018).
[93] O.diemuodeke and others, 'Deep Decarbonization Pathways (DDP) for Nigeria's Low Emission Development up to 2060 Report'. Centre for Climate Change and Developmemt (CCCD)< Deep Decarbonization Pathways (DDP) for Nigeria's Low Emission Development up to 2060 - DDP initiative> accessed 26 October2025.
[94] *ibid.*

iii. Reduction in energy intensity by 2.5%, annually, across all sectors[95]30% of grid-connected electricity generation from renewable energy and installation of 13GW of off-grid renewable energy solutions,
iv. All vehicles to meet EURO IV emission limits by 2030.
v. 25% of trucks and buses to run on CNG by 2030, while, Bus Rapid Transport will account for 22.1% of passenger-km by 2035.

A significant criticism of the Paris Agreement, particularly as it concerns the NDCs, however, is the absence of disclosure of the methods used in arriving at individual NDCs and the absence of a sanctioning legal mechanism to hold parties accountable for failure to meet their respective NDCs.[96] This is because the legal nature of the Paris Agreement is quite similar to the tone of other international laws.[97]

The Paris Agreement establishes a committee of experts in relevant fields that operates in a transparent manner, avoiding adversarial or punitive measures.[98] This means the committee is purely diplomatic, as there are no punitive sanctions or measures to secure compliance with the core obligations imposed on its parties.[99] Some authors have noted that the Paris Agreement's approach to securing compliance with its core obligations is a necessary evil to avoid the political stalemate previously encountered by the UN in persuading its member nations to join its global fight against climate change.[100]

REGIONAL INSTRUMENTS FOR AUTOMOBILE EMISSION CONTROL

This section analyses relevant African instruments for vehicular emission control in Nigeria. Some of these instruments have been ratified in Nigeria and they do have the ability to tackle automobile emissions if fully utilised by Nigeria.

African Charter on Human and Peoples' Right[101]

Also known as the Banjul Charter, it is a regional human rights instrument adopted by the Organization of African Unity (now known as the African Union) in 1981. It entered into force in 1986. The Charter is a binding regional human rights agreement that obliges member states to protect and promote a wide range of environmental, civil, political economic, social, cultural and collective rights.

It has been domesticated in Nigeria by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, (Cap A9 Laws of the Federation of Nigeria 2004). With the domestication it can be judicially enforced in Nigeria.

Notably amongst the provisions of the Charter is the explicit provision for peaceful environmental making it a pioneering human rights instrument in this regards. Article 24 of the Charter, for instance, commits Nigeria to providing for all peoples and citizens an air environment that is not harmful to both human health and the ecosystem. It states: "…All peoples shall have the right to general satisfactory environment favourable to their development." Similar provisions are the right to life,[102] right to health[103]and development.[104]

[95] *ibid.*
[96] Meinhard Doelle, 'Assessment of Strengths and Weaknesses' in Daniel Klein and others (eds), The Paris Agreement on Climate Change: Analysis and Commentary (Oxford University Press 2017) 378.
[97] *ibid.*
[98] *ibid.*
[99] Article 15 of the Paris Agreement
[100] Ezeumeh (n 91).
[101] African Charter on Human and Peoples Rights OAU Doc CAB/LEG/67/3 rev.5; 21 ILM 58 (1982).
[102] Article 4 of the African Charter on Human and People's Rights.
[103] *ibid* Article 16.
[104] *ibid* Article 22.

The inclusion of Article 24 in the Charter can best be described as apt and a reflection of the traditional African society in harmony with the natural environment, a practice that transcends generations. In other words; "while the express recognition of the right to environment in Africa is innovative, what the right embodies is the right of every African to an environment that is not harmful to their health as implicit in those ancient conservation and management practices".[105] Under these provisions, uncontrolled vehicular emissions by a party to the Charter, such as Nigeria, can be seen as a breach or violation of the rights enshrined in the Charter.

Furthermore, the African Charter imposes three tiers of obligations on member states. These tiers are "Respect, Protect and Fulfill".[106] Member countries must have respect for their citizens and refrain from actions that cause harmful environmental degradation such as vehicular emissions. Member States must also regulate sectors like the transport sector to ensure their activities do not cause harm to their citizens, and lastly, States must take positive steps such as adopting vehicle emission standards to ensure the enjoyment of rights under the Charter.

In **SERAC and Anor v Nigeria**[107] SERAC contended that the Nigerian government violated several Charter rights by failing to prevent and remedy environmental degradation caused by oil operations. Although the case concerned oil pollution its reasoning extends to air pollution from automobiles. As aptly held in the above case, the African Commission on Human and Peoples' Rights stated that: "The Charter requires the states to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation and to secure all ecologically sustainable development and use of natural resources."

In line with the above position, the ECOWAS Community Court in **Socio-Economic Rights Action Projects v Federal Republic of Nigeria emphasized** the obligations of ECOWAS Member States under Article 1 of the African Charter on Human and Peoples Rights, to comply with Article 24 of the Charter. The obligation of each state party to the Charter under Article 24, according to the Court, is "both an obligation of attitude and an obligation of result."

The Court held that Nigeria as a state party to the African Charter is under international obligation "to recognise the rights, duties and freedoms enshrined in the Charter and to undertake to adopt legislative or other measures to give effect to them". The court found in the case that despite all the measures supposedly put in place to control environmental degradation in the Niger Delta, the Federal Government of Nigeria failed in the discharge of its obligations towards securing the rights under Article 24 of the charter.

African Union's Agenda 2063

The African Union has also defined a set of development goals targeted for the African continent, in a longer time frame through the formulation of the 'African Agenda 2063' in 2013.[108]The African Agenda 2063 is a long-term 50year development agenda starting from 2013, envisioned to be implemented through successive 10-year implementation plans. The Agenda 2063 is embedded in the Constitutive Act of the African Union Vision.[109] The Agenda's guiding vision seeks to build "an integrated, prosperous and peaceful Africa, driven and managed by its own citizens and representing a dynamic force in the international arena".[110] The African Agenda 2063 is perceived as a reflection of African leaders' desire to

[105] E.P Amechi, 'Enhancing Environmental Protection and Socio-Economic Development in Africa: A Fresh Look at the Right to a General Satisfactory Environment under the African Charter on Human and Peoples' Rights' *Law, Environment and Development Journal* [2009]5(1),58.
[106] A.T Chekol and I.Doğan, 'Championing Human Rights: Normative Insights into the African Charter on Human and Peoples'Rights' *Beijing Law Review* [2024]15, 1598-1634
[107] (2001) AHRLR 60 (ACHPR 2001).
[108] African Union, Agenda 2063: The Africa We Want – Framework Document (Addis Ababa: African Union, 2015) 1–172 < https://doi.org/10.2345/0899-8205-44.1.49> accessed 19 July 2025.
[109] African Union, Constitutive Act of the African Union (adopted 11 July 2000, entered into force 26 May 2001<https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf>accessed 19 July 2025.
[110] M.G Royo and others, 'Linking the UN Sustainable Development Goals and African Agenda 2063: Understanding Overlaps and Gaps between the Global Goals and Continental Priorities for Africa' *World Development Sustainability* [2022]1-9.

frame their own national and regional development priorities.[111] Often described as "the continent's shared strategic framework" for sustainable development and inclusive growth.[112]

The Agenda is made up of 20 Goals clustered into 7 Aspirations.[113] It has a different and broader definition of 'goal' than the Sustainable Development Goals stemming from its 50year horizon, where the goals are fixed but "the priority areas and their associated targets can change over the various ten year plan cycles."[114]

Aspiration 1 for instance is "A Prosperous Africa Based on Inclusive Growth and Sustainable Development". While goal 7 of the Agenda which pertains to our study is "Environmentally sustainable and climate-resilient economies and communities" this can be used for the promotion of low-carbon development, encouragement of sustainable consumption and production patterns, support the reduction of greenhouse gas (GHG) emissions through improved energy use, industrial processes and transport systems. The relevant targets under this goal may include: the adoption of clean energy technologies and the Promotion of sustainable urban transport systems to reduce vehicular emissions. Nigeria is a member of the African Union and is actively engaged in the agenda 2063 initiative[115]

ECOWAS Renewable Energy Policy 2013[116]

The Economic Committee of West African States (ECOWAS) adopted the ECOWAS Renewable Energy Policy (EREP) in Abuja, Nigeria, 2013.[117] It represents a landmark commitment by all member states to promote clean energy transitions. The EREP outlines ambitious goals, including achieving 48% of electricity generation capacity from renewable sources and universal access to sustainable energy services by 2030.[118]

The EREP's policy objectives align with global sustainability frameworks, such as the United Nations Sustainable Development Goals (SDGs), particularly Goal 7, which calls for access to affordable, reliable, sustainable, and modern energy for all.

There are also institutional mechanisms in place to support policy implementation and regional coordination. The ECOWAS Conference for Peace and Security, held in November 2007, expressed the need for a Regional Centre whose mandate would be to promote markets for renewable energy and energy efficiency within the region and exploit the region's vast renewable energy potential [119]

The establishment of the ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE) in 2010 was a milestone in fostering a structured and unified approach to renewable energy development in West Africa.

The ECREEE plays a dual role and acts as a technical and advisory body responsible for promoting regional cooperation, mobilizing investments, enhancing capacity building and facilitating knowledge sharing among member states. Since the establishment of the ECREEE inception, ECREEE has collaborated with a range of development partners.[120] Some of these partners are the African Development Bank (AfDB), the

[111] *ibid*.
[112] *ibid.*
[113] *ibid.*
[114] *ibid*.
[115] M. Addaney and C.G Moyo, 'Women's Right, Gender and Climate Change Law in Africa: Advancing an Equity Agenda's Law, *Society and Development* 2018]5(1),1-18.
[116] ECOWAS, ECOWAS Renewable Energy Policy (adopted 21 June 2013 by ECOWAS Council of Ministers; 17–18 July 2013 by ECOWAS Authority of Heads of State and Government).
[117] M.Maduekwe and others 'Gender Equity and Mainstreaming in Renewable Energy Policies - Empowering Women in the Energy Value Chain in the Economic Community of West African States (ECOWAS)' *Current Sustainable Energy/Renewable Energy Reports* [(2019] 6,13–21.
[118] C.E Nnaji, 'Assessment of ECOWAS Renewable Energy Policies and Development Projects: Progress, Successes, and Challenges' *African Journal of Environmental Sciences and Renewable Energy* [2025]19(1),124–145.
[119] Maduekwe (n 122).
[120] ibid

United Nations Industrial Development Organization (UNIDO), and the European Union, to support project implementation and institutional strengthening.[121]

There are also key financing instruments such as the ECOWAS Renewable Energy Investment Initiative (EREI).[122] An example of the EREP programme in Nigeria is the Mambilla Hydropower Project.[123] The facility is the largest power plant in Nigeria and one of the largest in Africa. Despite its conception years ago, however, the project remains stalled due to a legal tussle between the Federal Government and Sunrise Power and Transmission Ltd.[124] The Mambilla Hydroelectric power is a 3,050 MW hydroelectric Power Station and if completed it is expected to generate 4.7 billion kWh of electricity annually.[125]

Other initiatives are the African Renewable Energy Initiative (AREI),[126] which aims to deliver clean and renewable energy across Africa, and this will reduce reliance on fossil fuels, thereby lowering emissions. There is also the African Strategy on Climate Change[127] that serves as a continental response to climate change that encourages climate-smart policies, including emission reduction and adaptation measures. The Grand Inga Dam Project[128] is also another hydropower project intended to supply clean energy to much of the continent.

DOMESTICATION OF INTERNATIONAL AUTOMOBILE EMISSION CONTROL LAWS IN NIGERIA

From the above discussions, it can be deduced that international environmental law has evolved to address global climate threats and, more particularly, emission abatement. Practically all issues in national security and well -being have escalated to the international sphere, requiring a code of global good governance crafted in treaties and agreements.[129]

These treaties often require ratification or adoption of some sort by parties to the agreement. This section would discuss the dynamics of the adoption of treaties in Nigeria and identify the challenges, if any, involved in the process.

Framework for the Domestication of Treaties in Nigeria

The relevance of treaties in the progressive development of the Nigerian legal system cannot be overemphasized.[130]They not only fill the gaps in the Nigerian legal system but also expand its frontiers.[131] Nigeria is a sovereign member of the international community following her independence in 1960 and

[121] I.Sakho, 'Institutional Capacity and Renewable Energy in West Africa' *Renewable Energy Journal* [2019] 45(1), 55–69.
[122] Which connects investors with project developers
[123] The Mambilla Hydropower Project is a planned 3,050-megawatt hydroelectric facility located on the Donga River in Taraba State, Nigeria. Intended to become the country's largest power station, the design includes four dams, subterranean power stations, and a network of tunnels channeling water from the Mambilla highlands down to the base of the plateau. Despite its ambitious scope, the project has faced prolonged delays, financial hurdles, and a troubled past marked by legal battles and corruption claims, casting doubt on its eventual completion.
[124] The Mambilla project was awarded to Sunrise Power and Transmission Ltd in 2003 by the Federal Government Years later, Sunrise Power was sidelined, leading to a legal dispute. This resulted in Sunrise Power filing cases against the Federal Government at the International Chamber of Commerce (ICC) in Paris for breach of contract. An out-of-court settlement was reached in 2020, with Sunrise Power agreeing to withdraw its claims for a $200 million payment.
[125] Henry Ojelu, 'Mambila:How Legal Tussle Keeps Nigeria in Darkness' Vanguard (14 March 2024 Nigeria) <https://www.vanguardngr.com/2024/03/mambilla-how-legal-tussle-keeps-nigeria-in-darkness/?utmsource> accessed 4 June 2025.
[126] Africa Renewable Energy Initiative (AREI), A Framework for Transforming Africa Towards a Renewable Energy-Powered Future with Access for All (endorsed by CAHOSCC and AU Heads of State, 2015) <http://www.africanpowerplatform.org/resources/620-a-framework-for-transforming-africa-towards-a-renewable-energy-powered-future-with-access-for-all.html?utm_source> accessed 10 July 2025.
[127] African Union Commission, African Union Climate Change and Resilient Development Strategy and Action Plan (2022–2032) (adopted 28 June 2022) <https://au.int/en/documents/20220628/african-union-climate-change-and-resilient-development-strategy-and-action-plan>accessed 6 July 2025.
[128] The Grand Inga Dam is an enormous proposed hydroelectric project on the Congo River in the Democratic Republic of Congo, aiming to produce between 40,000 and 44,000 megawatts of electricity—potentially making it the largest hydroelectric facility in the world. Its vision is to supply power across Africa and drive industrial growth. However, progress has been hindered by financial constraints and disputes with major institutions such as the World Bank, which pulled out of a crucial early stage. While the existing Inga I and II dams are already in operation, the Grand Inga initiative plans to add several new power stations in a phased rollout.
[129] A.R Agom, 'Legal Framework for Treaty Making and Management in Nigeria' *Nigerian Institute for Legislative and Democratic Studies* [2019] 7, 1-10.
[130] C.E Okeke and M.I Anushiem,'Implementation of Treaties in Nigeria: Issues, Challenges and the Way Forward' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [2018] 9, 216-229.
[131] *ibid*.

republican status in 1963. Nigeria was admitted as the 99th member of the United Nations on October 7th, 1960.[132] It signed and ratified the 1969 Vienna Convention on the Law of Treaties.[133]

Nigeria has entered into several binding bilateral and multilateral treaties at global and regional levels. A treaty is binding at international law on the customary principle of *pacta sunt servanda,*[134] which means a treaty binds only parties which signed and ratified it. There are cases however where treaties may enter into force immediately upon signature and therefore, automatically binds the parties thereto without any need for ratification. This is usually the case in bilateral treaties. This point was amply made clear in the case of **Cameroun v Nigeria**,[135] here the International Court of Justice held as follows:

while in international practice a two-step procedure consisting of signature and ratification is frequently provided for in provisions regarding entry into force of a treaty, there are also cases where a treaty enters into force immediately upon signature.

Consequently, the Court rejected Nigeria's argument that the Maroua Declaration, a bilateral treaty between Cameroun and Nigeria, was invalid under international law because it was signed by the Nigerian Head of State at the time but was never ratified.[136]

Nigeria, as a party to most international treaties aimed at controlling vehicle emission is obligated to implement these treaties domestically. The two important stages in treaty-making are signing and ratification. The signing of a treaty is a symbolic assent of the state to the instrument, while ratification is the process by which a state establishes its consent to be bound by the treaty.[137] The implementation of domestication is the process by which a treaty validly entered into is enacted as legislation so it can have an effect in the domestic environment. The first two stages are executive acts, while the third involves the legislature.

Generally, there are two known models for treaty-making or treaty enforcement. Some countries operate on the monist model; here, once the parliament ratifies a treaty, it is in principle enforceable.[138] Like Ghana[139]and Kenya.[140] The executive negotiates the treaty; it is debated by the legislature and voted on, and the executive proceeds to ratify the treaty, and it automatically becomes part and parcel of the laws of the land.

On the other hand, there are countries that adopt the dualist mode under this system, where a treaty signed and ratified by the executive requires incorporation in domestic law to be enforceable. Nigeria adheres to this dualist approach to application of international law, a practice which is regular in common law countries like India.[141]

In essence, Nigeria operates a dualist system, meaning that international treaties do not automatically have domestic effect unless they are enacted into law by the National Assembly, pursuant to the provisions of the 1999 Constitution. It provides thus; "No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly."

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[132] *ibid*.
[133] Nigeria submitted the instrument of ratification to the UN on the 26th of May 1969.
[134] See Article 26, Vienna convention on the Law of treaties; Malcolm N Shaw, International Law (7th edn, Cambridge University Press, Cambridge 2014) 875.
[135] Land and Maritime Boundary dispute between Cameroon and Nigeria (Cameroun v Nigeria) (Judgment) (2002) I.C.J. Reports,264.
[136] Okeke and Anushiem (n 135).
[137] See Article 1, Vienna Convention on the Law of Treaties, 1969.
[138] Agom (n 134).
[139] Section 75 of the Constitution of the Republic of Ghana (1992)
[140] Section 2(6) of the Constitution of Kenya (2010).
[141] In India, the Treaty making power has been vested with the Union under Article 246 and entries 13 and 14 of List 1. Furthermore Article 253(5) empowers the parliament to make any law for the whole or any part of the territory of India, for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body"

This implies that international instruments, including those on automobile emission control, must be passed into Nigerian law to become enforceable. The most relevant treaties to vehicular emission control like The United Nations Framework Convention on Climate Change (UNFCCC), The Kyoto Protocol and the Paris Agreement remain unenforceable unless they are replicated in Nigeria.[142] Although Nigeria has ratified these instruments many have not been formally domesticated and the implication is that the court cannot enforce their provisions unless incorporated into Nigerian Law.

The status of undomesticated treaties in the Nigerian legal system has generated considerable controversy among scholars and jurists and has been put to test in the Nigerian courts. In the case of **Abacha v Fawehinmi** [143] Ogundare, J.S.C, (as he then was) held that undomesticated treaties have no force of law in Nigeria unless they have been enacted into law by the National Assembly. This decision affirms the dualist position and underscores that international commitments, even those on environmental protection, are not justiciable unless domesticated. The Supreme Court held particularly that:

Where… treaty is enacted into law by the National Assembly, as was the case with the African Charter which is incorporated into our municipal (i.e. domestic) law by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 Laws of the Federation of Nigeria 1990 (hereafter is referred to simply as Cap 10), it becomes binding and our courts must give effect to it like all other laws falling within the judicial powers of the courts. By Cap 10 the African Charter is now part of the laws of Nigeria and like all other laws the courts must uphold it.

The Charter gives to citizens of member states of the Organisation of African Unity Rights and Obligations, which rights and obligations are to be enforced by our courts, if they must have any meaning. It is interesting to note that the rights and obligations contained in the Charter are not new to Nigeria as most of these rights and obligations are already enshrined in our Constitution. See Chapter IV of the 1979 and 1999 Constitutions.[144]

In considering the same facts in **General Sani Abacha and Ors v Chief GaniFawehinmi***[145]* the African Commission on Human and Peoples' Rights, held that Nigeria breached its obligations under the African Charter on Human and Peoples' Rights, to which it is a party. Implying that regardless of constitutional provisions Nigeria should be bound by its legal obligations as a party to an agreement. This dichotomy between domestic enforceability and international responsibility creates a legal gap that undermines treaty effectiveness.

This decision was also upheld in **Chima Ubani v Director of SSS and Anor** *[146]* where the court of Appeal held that while treaties can be invoked and guide the courts in interpreting fundamental rights provisions they cannot override express constitutional provisions or be directly enforced unless they are domesticated.

Nevertheless, in Nigeria the NESREA has the mandate to enforce compliance with the provisions of international agreements, protocols, conventions and treaties on the environment and such other agreement as may from time to time come into force.[147]It is evident that Nigeria has ratified the relevant treaties for vehicular emission control. Most of these treaties however are yet to be domesticated.

There the provision in the NESREA Act can therefore be interpreted in two ways. First, it could be interpreted in terms of giving NESREA the authority to enforce such environmental treaties in Nigeria regardless of their domestication status. This can be inferred because by ratifying the relevant treaty,

[142] C.A Okenwa, 'Has the Controversy between the Superiority of International Law and Municipal Law been Resolved in Theory and Practice?' *Journal of Law, Policy and Globalization,* [2015] 35,116.
[143] (2000) FWLR (Pt.4) 553 at 586.
[144] *ibid.*
[145] (2001) AHRLR 172.
[146] (2005) CHR 190.
[147] See section 7(c) of the NESREA Act 2007.

Nigeria has signified its intention to be bound by the provisions of such treaty.[148] Nigeria can therefore, not shy away from the performance of its obligations. This principle is also what is expressed in the Vienna Convention on the Law of Treaties, which provides that "every treaty in force is binding upon the parties to it and must be performed by them in good faith".[149] This principle is also known as the Principle of Good Faith (*pacta sunt servanda*).[150]

This line of thinking was reflected in the judgment of the Court of Appeal in the case of **Mojekwu v Ejikeme**.[151] Although the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)[152] had not been domesticated in Nigeria, the court referred to it in its judgment and had no difficulty in holding that the 'ili ekpe' custom was a form of discrimination against women.[153]

Secondly, the provision could be interpreted in such a way as to limit the enforcement powers of NESREA to those international agreements and treaties on the environment that have specifically been domesticated in Nigeria by an Act of the National Assembly. For NESREA to enforce compliance with the provisions of such treaties to which Nigeria is a state party, the relevant treaty would first of all have to be domesticated before it could be said to properly 'come into force'.[154]

Regardless of which view the court adopts in a given case, in the event of the relevant section being referred for judicial interpretation, section 7(c) of the NESREA Act has the laudable effect of the possibility of invoking the provisions of environmental law treaties.[155]

RECOMMENDATIONS

It is therefore recommended that Nigeria should be under an obligation to domesticate her environmental treaties by incorporating them as part of her national law to ensure effective implementation.

This requires political will on the part of both the executive and legislative arms of government to comply with the provisions of Section 12 of the 1999 constitution.

Nigerian courts should also be free to take the provisions of ratified treaties into consideration in arriving at decisions involving questions of rights of access to justice in environmental matters.

CONCLUSION

From the preceding discussions it is clear that the main challenge identified is legislative intervention. The treaties discussed have all been ratified by the Nigerian government but remain undomesticated due to delays in legislative processes. It is evident that automobile emission control is not prioritised and that the adoptions of these treaties often suffer low political prioritisation which is compounded by an evident lack of sectorial coordination. Treaties like the Kyoto Protocol and the Paris Agreement have no legal force, and this creates a gap between international obligations and national enforcement.

[148] M.T Ladan, 'Review of NESREA Act 2007 and Regulations 2009-2011:- A New Dawn in Environmental Compliance and Enforcement in Nigeria' *LEAD Journal* [2012] 8(1),118-140.
[149] Article 26 of the Vienna Convention on the Law of Treaties
[150] Latin translation being 'agreements must be kept'.
[151] (2002) 5 NWLR (PT.657), at 402.
[152] Nigeria signed and ratified the CEDAW on 23rd April 1984 and 13th June 1985 respectively.
[153] Section 7(c).
[154] Treaties on the environment that have been domesticated in Nigeria include the Convention on International Trade in Endangered Species of Fauna and Flora and Convention on the Prevention of Pollution by the Sea by Oil. There is also the African Charter on Human and Peoples Right.
[155] Ladan (n 153).