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**ENERGY RESURCES LAW**

**SEMINAR TOPIC:** ACCESS THE RELEVANCE OF THE KYOTO PROTOCOL IN THE NIGERIAN PETROLEUM SECTOR

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**ABSTRACT**

This paper focuses on the Kyoto Protocol. It gives a brief history of the protocol and how it is relevant in Nigeria.

It also reviews some of the challenges of compliance and implementation in Nigeria. The Kyoto Protocol is an amendment of the agreement on the United Nations Framework Convention on Climate Change (UNFCCC) signed in the Japanese City of Kyoto in Dec. 1997.

It was signed and ratified by 55 industrialized nations of the world before it came into force in Feb. 2005.The aim of the Kyoto protocol is to reduce the level of greenhouse gas (GHG) emission implicated in global warming to a safe and tolerable limit. Presently a total of 191 countries of the world have signed the treaty with only 55 industrialized nations ratifying it making the implementation of the treaty obligatory on them. The primary GHG that the treaty addressed to reduce their emission levels are CO2, CH4, N2O, SF6, Hydro fluorocarbon and per fluorocarbon.

The treaty set specific emission reduction targets for each industrialized nation to comply with. Nigeria is a signatory to the treaty and has also ratified it. Some of the sources of the gases in Nigeria include natural gas and fossil fuel combustion, bush burning, gas flaring, fairly used refrigerators and air conditioners, overpopulation, forest fire etc.

The major challenges facing the implementation of the treaty in Nigeria includes; overdependence on fossil fuel and natural gas as the major source of foreign exchange earner, absence of reliable data on GHG, emission, absence of sound and sustainable environmental policies and programs, over lapping policies among environmental agencies of government etc .

**INTRODUCTION:**

The **Kyoto Protocol** is an international [treaty](https://en.wikipedia.org/wiki/Treaty) which extends the 1992 [United Nations Framework Convention on Climate Change](https://en.wikipedia.org/wiki/United_Nations_Framework_Convention_on_Climate_Change) (UNFCCC) that commits State Parties to reduce [greenhouse gas](https://en.wikipedia.org/wiki/Greenhouse_gas) emissions, based on the [scientific consensus](https://en.wikipedia.org/wiki/Scientific_opinion_on_climate_change) that a [global warming](https://en.wikipedia.org/wiki/Global_warming) is occurring and it is extremely likely that human-made [CO2 emissions](https://en.wikipedia.org/wiki/Carbon_dioxide_in_Earth%27s_atmosphere) have predominantly caused it.

The Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005. The detailed rules for the implementation of the Protocol were adopted at COP 7 in Marrakesh, Morocco, in 2001, and are referred to as the "Marrakesh Accords." Its first commitment period started in 2008 and ended in 2012.

The Kyoto protocol was ratified by Nigeria on the 10 Dec 2004 and it entered into force on 10 Mar 2005. Under the Protocol, countries involved have to monitor their emissions and also keep record of the trades they carry out.

The Kyoto Protocol is seen as an important first step towards a truly reducing global emission which will in turn stabilize GHG emissions, and can provide the architecture for the future international agreement on climate change.

In Nigeria, Greenhouse gases build up in Nigeria is on the rise especially CO2. Hence the need for the Kyoto protocol implementation and other protocol alike.

**CHAPTER 1: THE CONCEPT OF THE KYOTO PROTOCOL**

Kyoto emerged from the UN Framework Convention on Climate Change (UNFCCC), which was signed by nearly all nations at the 1992 mega-meeting popularly known as the Earth Summit. It was the first agreement between nations to mandate country-by-country reductions in greenhouse-gas emissions.

The objective is to stabilize greenhouse-gas concentrations at a level that would prevent dangerous anthropogenic interference with the climate system. To enforce this, there was the need for a new treaty, one with binding targets for greenhouse-gas reductions. That treaty was finalized in Kyoto, Japan, in 1997, after years of negotiations, it went into force in 2005. Nearly all nations have now ratified the treaty, with the notable exception of the United States.

Under the protocol, industrialized nations pledged to cut their yearly emissions of carbon, as measured in six greenhouse gases, by varying amounts, averaging 5.2%, by 2012 as compared to 1990, which means a 29% cut in the values that would have otherwise occurred.

The Kyoto protocol however did not become an international law until more than halfway through the 1990–2012 period. At that point, global emissions had risen substantially. Some countries and regions, including the European Union, were on track by 2011 to meet or exceed their Kyoto goals, but other large nations were falling short. The United States and China – which were the biggest emitters churned out more than enough extra greenhouse gas to erase all the reductions made by other countries during the Kyoto period. Worldwide, emissions soared by nearly 40% from 1990 to 2009, according to the Netherlands Environmental Assessment Agency.

The Kyoto Protocol is significant because, unlike previous negotiations on climate change, which had only suggested that governments voluntarily reduce their emission of greenhouse gases, it contains concrete mandatory aims for the countries which have signed it. The

Protocol commits Annex I countries (developed countries and countries in economic transition, which have accepted the emission-reduction goals for the period between 2008 and 2012) to individual, legally-binding commitments on the reduction of their greenhouse gas-emissions.

Under the protocol, 34 countries committed themselves to a reduction of four greenhouse gases (GHG), carbon dioxide, methane, nitrous oxide, sulphurhexafluoride, hydro-fluorocarbon and perflourocarbon produced by them and all member countries. Several countries including the U.S. collectively agreed to reduce their greenhouse gas emission by 5.2% on average for the period 2008-2012.

The Kyoto Protocol gave flexible methods for countries to use to meet their gas reduction commitments. Such methods include:

1). Compensating for emissions by increasing the number of a country’s carbon sinks. Carbon sinks are forests, which take up carbon dioxide from the atmosphere. Countries are allowed to create carbon sinks on suitable sites outside of their own territory.

2). Emissions trading – trading of emission allowances between countries. This gives countries the opportunity to reduce emissions where it is most economically efficient to do so.

3). Clean development mechanism – promotes environmentally-friendly foreign investments from industrialized countries into developing countries. The developing countries are thus aided at achieving sustainable development.

4). Joint implementation – allows developed countries to sponsor foreign research to decrease emission levels in developing or under developed countries In exchange for the developed country’s investment, the host country provides the investor with emission reduction units, also known as carbon credits. The developed economies can afterwards use their carbon credits towards meeting their emission-reduction requirements under the Kyoto Protocol

Due to the importance attached to the issue of Climate Change and global warming, and in view of the activities required for the implementation of the Climate Change Convention and the Kyoto Protocol, the Federal Government of Nigeria established the Department of Climate Change in the Federal Ministry of Environment to serve as the vehicle for driving National Climate Change Efforts.

There is no gainsaying, there will be some changes in climate that cannot be avoided due to past and inevitable future global emissions, but the detrimental effects can be avoided if we can reduce greenhouse gases emission to an acceptable level.

**CHAPTER 2: THE RELEVANCE OF THE KYOTO PROTOCOL**

As a signatory to the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, Nigeria has made international commitments to promoting low-carbon development including meeting its reporting obligations to the UNFCCC, reducing emissions of greenhouse gases consistent with its national circumstances and within the context of poverty reduction and economic growth.

The Kyoto Protocol and other international institutions and processes also provide a range of financial incentives to embark on low-carbon projects. These include the Clean Development Mechanism and REDD (Reduced Emissions from Deforestation and Degradation). Nigeria’s first REDD+ project was approved in October 2011. While other projects such as the Green Climate Fund, are currently in the development stage. A low-carbon development pathway offers one way for climate change responses and sustainable development to find a mutually reinforcing synergy.

Nigeria has had some challenges facing the implementation of the treaty. It includes; overdependence on fossil fuel and natural gas as the major foreign exchange earner, absence of reliable data on GHG, emission, absence of sound and sustainable environmental policies and programs, over lapping policies among environmental agencies of government etc .Greenhouse gases build up in Nigeria is on the rise especially CO2 above the pristine value causing a rise in the atmospheric temperature overtime. The effects include desertification, loss of ecosystem and biodiversity, flooding etc. Therefore, there is the need to mitigate some of the anthropogenic activities that increases the level of GHG in the atmosphere that is in compliance with the provisions of the conventions and treaties on the environment. To this end, Nigeria needs to adhere to the requirements of the protocol because the benefits outweighs the cost and the revenue loss fear that is anticipated from overdependence on crude oil can be allayed by the diversification of the economy to environmentally friendly ventures such as the development of solar, nuclear, hydro power sources and the exploitation of solid minerals.

With the notable sources of GHG that are not limited from Trans boundary movement, Nigeria may find herself entangled in an imminent severe climatic change as it is presently evident. Some of the effects of the climate change are seen from the forest of the Northern part of the old Western and Eastern regions in the South that have been replaced by savanna vegetation and this has led to decrease in the amount of rainfall in those areas and decline in soil fertility. There are reports that Ozone in the atmosphere is being depleted by chorofluorocarbon(CFC) leading to the leakage of UV-B radiation especially at the Antarctic region.

Greenhouse gases in the atmosphere can emit thermal infrared radiation effect. The main greenhouse gases in the atmosphere are water vapor carbon dioxide, methane, nitrous oxide and ozone. Without them the earth’s surface temperature will be 33°C on average.

On the 3rd August, 1998, Nigerian’s first national communication to the UNFCCC and the inauguration ceremony of the members of the National Committee on Climate Change (NCCC) was held in Kano city. The preparation of the National Communication was in fulfillment of the commitment of parties under articles 4 and 12 of the convention where by parties undertake and prepare and forward their national communication to the Secretariat of the UNFCCC on Climate Change (Atsegbua et al. [28]. This is to assist parties to the convention in monitoring how far each party is complying with the implementation of the convention especially in the area of greenhouse gas emission.

The impacts of climate change in Nigeria vary in extent, severity and intensity. Some of the impacts includes but are not limited to:

1. Water: A considerable proportion of the population is at risk of water stress, with less than 40% having direct access to potable water. Climate change brings increased variability in rainfall, resulting in flooding in some humid areas in the south in the country and a decrease in precipitation in the savannah north. This may result in droughts and decrease in surface water resources in the north.
2. Energy: Climate change will have significant effects on the energy sector in Nigeria. In particular, rising temperatures would result in increased energy demand for air conditioning, refrigeration and other household uses. This in a context of severe shortages of energy supply.
3. Tourism: Tourism, one of Nigeria’s fastest growing industries, could be negatively affected as many tourist attractions are located along the coastal zone of the country.
4. Ecosystems: Forests and other ecosystems, already under significant pressure, would be adversely affected by climate change. Persistent flooding and water logging could make coastal forest regeneration more difficult.

**CHAPTER 3: CHALLENGES FACING THE IMPLEMENTATION OF THE CONVENTION IN NIGERIA**

Overtime, Nigeria appears oblivious of the consequences of climate change and pollution from the non-challant attitude to GHG emission in the country. Governmental policies have not been very inconsistent towards alleviating the emission of the GHG as certain disasters would have occurred before the nation wakes to realities and it is safe to say that the Nigerian borders are still very much porous to the importation of certain goods such as fairly used fridges and air conditioners that have been disposed off by the originating countries. These equipment use CFC as coolant that is implicated as a GHG which can accumulate in the atmosphere and contribute to global warming.

We also allow importation of fairly used vehicles and other automobiles considered to be a major pollutant. Generators from the originating countries find their way to the country through unscrupulous businessmen and women who often times connive with corrupt import regulatory agencies officials and this only aggravates this situation. The level of carbon dioxide in the atmosphere is gradually increasing above the bench mark value that can aggravate global warming because of the over dependence on fossil fuel and natural gas as source of electricity to homes and offices. In this period of irregular power supply from the national grid, people tend to provide their own electricity by means of fossil fuel combustion that generates CO2 which is one of the GHG implicated in global warming.

According to the World Trade Organization in 2015 which stated that fuel constituted 79.3% of Nigeria’s export in 2014. Crude oil and natural gas are major foreign exchange earners in Nigeria and its overdependence on them with an undiversified economy without the obvious realization that it is no longer sustainable because of the dwindling earnings that has affected even other oil producing countries.

Climate change is often caused by the rise in the levels of GHG in the atmosphere leading to elevated temperature above the safe value. Nigeria today is experiencing an adverse climatic change resulting in persistent flooding, droughts, wet and dry seasons, drying up of wetlands causing ecosystem oversimplification. The implementation of the Kyoto Protocol has been kind of a nightmare to Nigeria because of the inherent fear of sacrificing the short term economic developments on the altar of long term impact of ecological consideration of climate change.

Sadly, Nigeria’s Development Plans do not take into cognizance the threat of climate change resulting from the usage of its main export earner which is crude oil. However it can be said that presently due consideration will be given to economy diversification because of the falling price of crude oil in the world markets and the proposals by many major trading partners to embrace other cleaner technologies by outright ban on the use of gasoline engines.

It has been given that economies (including Nigeria) whose major stay is crude oil to use their earnings to diversify their economies. Although Nigeria is not the cause of the climate change and global warming but the adverse effect on the country are hard to ignore. Effects such as the prevalent seasonal flooding, desert encroachment in the Northern part of the country and the riverine areas that depend on fishing for their livelihoods are destroyed from rising flood water. Economically, incentives for climate change mitigation in Nigeria would be adverse. The nation depends on oil exports. This drives Nigeria’s economy.

The intrinsic and palpable fear of the Nigerian Government is that complying with policies that will reduce fossil fuel consumption will adversely hurt the economy as it is the eighth largest oil supplier in the world and the ninth largest deposits of gas. The Nigerian economy would massively be affected by a sustainable reduction of fossil energy consumption. About 80% of the government income and 90-95% of the export earnings and more than 90% of the foreign exchange reserves evolve from the oil sector. However, in recent times, the government has tried to diversify as attention has been diverted to gas which emerges in the joint-production of oil.

The fear is obvious because of large scale and unchecked corruption in the system with no implementable plan to diversify the proceeds to other viable economic ventures. Gas flaring that contributes significantly to CO2 levels in the atmosphere is still widely practiced in Nigeria because of the apparent lack of technology to manage it.

It is also understood that Nigeria is incredibly vulnerable to climate change. Although Nigeria does not contribute much to anthropogenic climate change in terms of carbon emissions or other pollutants, it does supply the rest of the world with masses of fossil fuels to burn in other respective countries. Many Nigerians have jobs associated with the oil industry. At the same time, many Nigerian’s depend on Agricultural practices to survive. The oil industry in Nigeria contradicts these practices by polluting areas in which they are located. The existence of oil in Nigeria has also lead to past political instability.

Mitigation of climate change is a rather complex issue, and in underdeveloped countries it is hard to enforce any such preventative legislature in regards to climate change. Though the protocol has been ratified in Nigeria, the implementation remains a nightmare to Nigeria because of the inherent fear of sacrificing the short term economic developments on the altar of long term impact of ecological consideration of climate change.

Adhering to the objectives of the Kyoto protocol is a double-edged sword for Nigeria. The positive long term effects on the climate change are oppose to the negative short term effects for the economic development. Observing them would reduce the income of the OPEC states among them is Nigeria.

Nigeria signed the Kyoto protocol under the Non-Annex 1 economies, so it is not committed to take measures but according to institute for Public Policy Analysis, Nigeria will be better off with their own initiatives to handle the climate change. A lot of suggested policies would harm the country rather than benefit it. Nigeria should however learn to adjust and build up marke based structures. Nigerian government are barely addressing he mentioned problems. The country has been so centered on political issues that even specific problems like climate change would not have attracted real attention outside the circle of environmental experts or NGOs.

Nigerian’s development plan does not recognize the economic threat caused by the climate change nor the menace of declining oil prices which could result from a reduced consumption of fossils fuels. Concepts to deal with issues like this have not been proffered so far. However, the national planning commission has announced to pay more attention to them in the future.

To this end, the Nigerian government has a lot of tasks to fulfill, such as: The diversification of the economy, independence of fossil fuels, revitalization of the stagnant agriculture, industrialization etc. All of these needs to be considered and properly dealt with otherwise the country risks to be speared by one of the two horns of the dilemma: climate change or declining oil-price.

National Policy on Climate Change and Response Strategy (NPCC-RS), as a National Document for implementing climate activities in the country.

According to the FEC, the nation’s highest decision making body, the approval is to provide the government with a framework for tackling environmental challenges occasioned by global changes in the climate, the effect of which, according to the body, has manifested in increased flooding and rise in sea level.

According to Hadiza Mailafia, in her capacity as the minister for environment, being a signatory to Kyoto Protocol, Nigeria’s adoption of the policy will enhance her obligation towards reduction of emission of obnoxious substances in the environment even as it emerged that gas flaring in the country has been reduced to 8% and will improve further as more gas is sent to generate electricity in upcoming power stations.

**RECOMMENDATION/CONCLUSION:** In conclusion, it is hard to determine whether Nigeria should attempt to mitigate climate change, or sustain its economy. Primarily all of the country’s economic development can be accredited to producing petroleum products. In the end it must be understood that by producing vast amounts of oil, Nigeria is contributing to the issue of climate change around the world. Although this is done indirectly, it is still taking place.

It is however not too late to have an attitudinal change both on the part of the government and its citizen to do all within their powers to overcome the negative attitude, and put the necessary policies in place so as to totally implement the objectives of the Kyoto protocol. Governmental agencies in charge of the environment should be strengthened with policies and programs aimed at GHG reduction and there should be strict enforcement of the laws on the emission of the gases to comply with the stated regulatory standards.

Diversification of the economy through the investment of the huge earnings from crude oil should go beyond speculative considerations as there is little or no time because the dwindling price of the commodity is enough information of an impending economic doom. Other environmentally friendly alternative sources of energy such as solar, nuclear, and hydro should be given due consideration and implementation as opposed to the norm the country is used to. Forestation programs should be done by creating more forest reserves. Also bush burning, overgrazing and other forms of land degradation should be strictly avoided.

As a party to the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol, Nigeria has the obligation to ensure the reduction of human induced atmospheric carbon emission to a level that will prevent dangerous interface with the climate system.

Nigeria also needs to undertake numerous activities in the areas of adaptation and awareness creation to ensure the implementation of the UNFCCC policies

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