A BILL

FOR

AN ACT TO PROVIDE FOR ESTABLISHMENT OF THE NIGERIAN PESTICIDE COUNCIL; AND FOR RELATED MATTERS

Sponsored by Hon. Muntari Dandutse Mohammed

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria-

ESTABLISHMENT OF THE NIGERIAN PESTICIDE COUNCIL, ETC.

1.-(1) There is hereby established a body known as the Nigerian Pesticide Council (hereinafter referred to as "the Council").

(2) The Council shall be a body corporate with perpetual succession and common seal and may sue and be sued in its corporate name.

2. The purpose of this legislation is to enable society to obtain the benefits of use of pesticides, protect against any unreasonable adverse effects of pesticides on man and the environment and encourage the innovation of pesticide products. This legislation concerns all aspects of the control of pesticides in the environment, including imports, sale, distribution and use of pesticides, as well as marketing and enforcement.

Agricultural pesticides, household pesticides, industrial pesticides and public health pesticides intended for use to control pests are all covered by this legislation, unless otherwise exempted pursuant to Section 19(4).

3.-(1) The Council shall consist of the following members which shall be responsible for the discharge of its functions;

(a) The Chairman shall be appointed by the Minister of Agriculture;

(b) a representative(s) of the following Federal Ministries (MDAs) or organizations who shall not be below the rank of a Director and or CEO of such organizations:
(i) Ministry of Health (NAFDAC);
(ii) Ministry of Agric & Rural Development (2 representatives);
(iii) Ministry of Environment;
(iv) Ministry of Trade & Investment;
(v) Ministry of Justice (Legal Adviser);
(vi) Ministry of Labour & Productivity;
(vii) Standards Organization of Nigeria (SON);
(viii) Crop Life Nigeria (2 representatives);
(ix) Nigerian Society for Plant Protection (NSPP);
(x) Agricultural Research Council (ARC);
(xi) Nigeria Custom Service;
(xii) A representative of the Nigeria Farmers Association;
(xiii) Civil Society Organization;

(c) The Executive Secretary of the Council to be appointed by the
Minister.

(2) The supplementary provisions set out in the schedule to this Act
shall have effect with respect to the proceedings of the Council and the other
matters contained therein.

4.- (1) The Chairman shall hold office for four (4) years and may be re-
appointed by President for another term of four (4) years but not exceeding two
(2) terms.

(2) Other members of the Council shall be in office for a term of four
(4) years or may be reappointed for one term.

(3) Representatives can be recalled/withdrawn where his character
and behaviors are inconsistent and unacceptable by their nominating bodies.

(4) Allowances shall be paid to the members of the Council as may be
determined by the Council.

5.- (1) The Council shall be charged with the following functions:

(i) to register Pesticides for use in Nigeria as spelt out in the laws of
the Federation;
(ii) to regulate the sales of Pesticide and to license individuals and organisations that market Pesticides in Nigeria;
(iii) to control all forms of advertisement of Pesticides in Nigeria;
(iv) to establish and operate laboratories for quality control and for monitoring their residues in every agricultural commodity and the environment;
(v) to formulate and implement any Pesticide policy both local and International, including the applications of the "Prior Informed Consent" procedure;
(vi) to regulate the manufacture, formulation, packaging, labelling, transportation, distribution, storage and usage of Pesticides in Nigeria;
(vii) to control the form, type, quality and quantity of Pesticide imported into Nigeria and exported to other countries;
(viii) to monitor, control and regulate the sales of Pesticide and to license and promote individuals and/or Associations and organisations that deal on and market pesticides in Nigeria;
(ix) to promote and formulate policies for safe and effective use of Pesticides in Nigeria;
(x) to advise the Presidency/Ministry on all matters relating to the registration, inspection and supervision of Pesticides in Nigeria;
(xi) to process, inspect, register and advice and collate all necessary information on registered and approved Pesticides in Nigeria.

(2) The Council shall have the authority to cancel registration of any Pesticide for which it has evidence that its continued use has unacceptable hazard to human, health and environment.

(3) The Council may suspend, withdraw or cancel the Certificate of Registration if:

(i) the grounds on which the pesticide product was registered were later found to be false or incomplete; or

(ii) the circumstances under which the pesticide product was
registered no longer exist; or
(iii) any of the conditions or undertaking under which the pesticide
product was registered has been contravened; or
(iv) the standard of quality, safety or efficacy as prescribed in the
documentation for registration are not being complied with; or
(v) the premises in which the pesticide product is imported,
processed, manufactured, formulated or stored by or on behalf of the holder of
the Certificate of Registration are unsuitable for the importation, processing,
manufacturing, formulation or storage of the pesticide product.
(4) The Council shall have power to levy and charge for services
provided.

6. The Secretary to the Council, who in addition to his functions shall
have such other administrative functions as may be assigned to him from time
to time by the Council.

7. The Council shall have powers to:
(1) Do all things which this Act or any other enactment are required or
permitted to be done by the Council; and
(2) Do such other things as are necessary or expedient for the
performance of its functions under this Act.

8. Where the Council desires to obtain advice from any person, group
of persons, association or organisation, upon any matter, it may co-opt such
person, group, association or organisation to be a member (s) for such meeting
or meetings as may be required and any such person etc, shall whilst co-opted,
have all the rights and privileges of a member of the Council except that he
shall not be entitled to vote or count towards a quorum.

9. The Council may subject to the provisions of this Act make staff
regulations relating generally to the conditions of service of the council and
without prejudice to the generality of the foregoing, such regulations may
provide for the appointment, promotion and disciplinary control (including
dismissal of employees of the Council and Appeals by such employees against
10. The Council shall determine its condition of service including pension and gratuities as appropriate for its employees.

11.- (i) It is hereby declared that service in the Council shall be pensionable under the Pension Reform Act, and accordingly, employees of the Council shall in respect of their service in the Council be entitled to pension, gratuities and other retirement benefits as are prescribed there under.

(2) Notwithstanding the provisions of 11(1) of this Act, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of that office.

12. The Council may on the recommendation of the Executive Secretary create such departments in the Council as it may deem fit for the efficient discharge of the functions of the Council.

13.- (i) The Council shall establish and maintain a fund which shall be applied towards the discharge of its functions under this Act;

(ii) There shall be paid and credited to the fund established pursuant to sub-section (1) of this section, such sums as may be provided by the Government for the Council;

(iii) Any fees charged for services rendered by the Council, and all other sums accruing to the Council by way of gifts, donations, testamentary disposition, endowments and contributions from philanthropic persons and organisations or otherwise whosoever.

14.- (i) The Council may accept gifts of land, money or other property on such terms and conditions that is ethically acceptable to the Council and as may be specified by the person or association or organisations making the gift;

(ii) The Council shall not accept any gift if the conditions attached by the person or association or organisation making the gift are inconsistent with the functions of the Council.
15.- (1) The Council may with the consent or in accordance with any specific authority given by the Council, borrow by way of Loan or Overdraft from any source approved by the Minister, such specified amount of money as may be required by the Council for meeting its obligations and discharging its functions under this Act.

(2) The Council may subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds with the consent or general authority of the Minister.

(3) The Council may invest any surplus funds of the Council in securities prescribed by the Trustee Investments Act on such other securities as may from time to time be approved by the Minister.

(4) Subject to the provisions of the Land Use Act, and any special or general direction which the Minister may give in that behalf, the Council may acquire or lease any land required for its purpose under this Act.

16.- (1) The Council shall cause to be prepared, not later than 30th September in year, an estimate of the expenditure and income of the Council during the next succeeding year and when prepared they shall be submitted through the Minister for approved by the Federal Executive Council.

(2) The Council shall cause to be kept proper accounts and proper records in relation thereto and when certified by the Council such accounts shall be audited as provided in sub-section (3) of this section.

(3) The accounts of the Council shall be audited by auditors appointed from the list of auditors and in accordance with the guidelines issued by the Auditor-General of the Federation and the fees of the auditor and the expenses for the audit generally shall be paid from the funds of the Council.

17. The Council shall not later than Six (6) months after the end of each year submit through the Minister of Agriculture to the Federal Executive Council a report on the activities of the Council and its administration during the proceeding year and shall include in the report the audited accounts of the Council and the auditors comments thereon.
18.- (1) Fee-for-service:

(a) Any application for the registration of a pesticide or existing pesticide shall be submitted to the Council upon payment of a registration fee;

(b) The Council shall publish within six months of the effective date of this Act a schedule of registration service fees and the periods of review. All registrants shall be subject to the same registration service fee for each application submitted to the Council, without exception;

(c) Initial Screening. Not later than 21 days after receiving an application and the required registration service fee, the Council shall conduct an initial screening of the contents of the application. If the Council determines that the application does not pass the initial screening, the Council shall reject the application not later than 10 days after making the determination. In conducting the initial screening, the Council shall determine whether:

(i) the applicable registration service fee has been paid; and

(ii) the application contains all the necessary forms, data, and draft labeling, including any necessary forms as required by Section 17(4) of this Act;

(d) Registration service fees shall be used only to defray the administrative costs associated with the review of pesticide registration applications.

(2) Maintenance fees:

Each registrant shall pay an annual fee per registration. The Council shall publish a schedule of that annual fee within six months of the effective date of this Act.

(3) Fee waiver:

In the case of a pesticide that is registered for minor agricultural use, the Council may reduce or waive the payment of the fee imposed if the Council determines that the fee would significantly reduce the availability.
of the pesticide for the use.

19.- (1) Requirement of registration:

Except as provided by this Act, no person may distribute or sell to any
person any pesticide that is not registered under this Act.

(2) Categories of pesticide registration:

(a) Experimental User Permit:

(i) Experimental User Permits shall be granted to a product for which
only short-term toxicity and efficacy data are available. Products granted
experimental user permit shall be field and laboratory tested only by qualified
scientific and other recognized technical personnel for the purpose of
collecting or verifying toxicity and efficacy data;

(ii) Experimental user permit shall be granted on a product for a
period not exceeding three (3) years after which this permit status can be
renewed if application for full registration has not been approved.

(3) Full Registration:

(a) Full registration shall be granted to a product that has met all
requirements. Such registration shall be for a period of five (5) years only. After
this period, the registration status of the product shall be re-evaluated;

(b) Applicant for re-evaluation shall not be required to provide new
bio-efficacy and residue trial result from Nigerian Research Institute except
where there is a scientific concern as may be determined by the Council;

(c) A product denied full registration shall not be resubmitted for re-
consideration unless additional information to support claims accompanies
such requests;

(d) The Council shall operate fully equipped and functioning facilities
for efficacy data evaluation in order to effectively verify label claims and for
data submitted;

(4) Exemptions:

The following pesticides or related substances are exempt from all
requirements under this Act:
(a) Nitrogen stabilizers are substances, intended to prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urea production through action affecting soil bacteria;

(b) Any instrument or contrivance which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganisms on or in living man), and any equipment used for the application of pesticides;

(c) Antimicrobials are pesticides that are intended to disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms, or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime;

(d) Plant-incorporated protectants are pesticidal substances intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance (e.g., genetically modified organisms and genetically modified seeds);

(e) Pharmaceuticals and animal health products are products intended for use against fungi, viruses, bacteria or other microorganisms on or in living man or living animals;

(f) Liquid chemical sterilant products are any sterilant products used on critical devices, (including any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body) or semi-critical devices (including any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body);

(g) An article or substance treated with, or containing, a pesticide to
protect the article or substance itself, if the pesticide is registered for such use;

(h) Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps, and pheromone traps in which those compounds are the sole active ingredients;

(i) Embalming fluids, products used to preserve animal or animal organ specimens, or products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis;

(j) Products consisting of foods and containing no active ingredient, which are used to attract pests;

(k) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles;

(l) Other pesticides regulated by another Ministry;

(m) A fertilizer product not containing a pesticide;

(n) The Council may issue an experimental use permit to any person making an experimental use application, provided that the Council determines the experimental use permit is required in order to accumulate information necessary for the registration of a pesticide under this Act. Use of a pesticide under an experimental use permit shall remain under the supervision of the Council and shall be subject to such terms and conditions and be for such period of time as the Council may, from time to time, prescribe in the permit.

20.-(1) With respect only to information pertaining to an active ingredient, an application may include citations to previously submitted data, which the Council may consider in accordance with subparagraphs (d)(ii) and (iii).

(2) Exclusivity. Data submitted to support the application for the original registration of a pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Council to support an application by another person during a period of ten years following the date the Council first registers the pesticide.
The period of exclusive data use shall be extended one additional year for
each three minor uses registered within seven years of the commencement
of the exclusive use period, up to a total of three additional years.

(3) Exclusivity shall also be fully applicable to any new data
submitted pursuant to subsection (i) to the Council subsequent to the
registration of a pesticide, for a period of ten years following the date of
submission of such data to the Council.

(4) Failure to comply with these provisions shall result in denial of
application or cancellation of registration.

21.- (1) The Council shall publish guidelines no later than six
months following the effective date of this Act specifying the type of
information which will be required to support the registration of a pesticide
and shall revise such guidelines from time to time.

(2) Where the Council requires any additional information, it shall
allow sufficient time for applicants to obtain such additional information. If
additional data are required to maintain an existing registration of a
pesticide, the Council shall notify all existing applicants for and registrants
of the pesticide to which such determination relates.

(3) The Council may decide that for certain types of pesticides that
have been shown to be of low risk, a fast-track registration procedure can be
followed and under this procedure, submission of a limited set of data may
suffice.

22.- (1) All information submitted by the applicant for registration
must be treated as proprietary data by the Councils and some of the
information may also be confidential, including the analytical profile of the
technical grade active ingredient, the composition of the pesticide
formulation, the manufacturing process of the active ingredient and the
formulation, or commercial (trade/sales) information.

(2) Data concerning health and environmental effects are not
confidential and can be accessed by the public, provided the Council takes
effective measures to ensure that third parties cannot use such information and
data for commercial purposes, including in support of any subsequent pesticide
application.

(3) The Council shall take all necessary measures to keep an
application and supporting data provided by an applicant or registrant
confidential during the registration process. The Council shall not allow
another applicant to register its products on the basis of data it does not own and
for which it has no authorization for use for registration purposes from the data
owner.

(4) The Council may provide a list of pesticide-related (primarily
health and environmental) information that is not considered confidential once
registration has been granted. After evaluation by the Council, a summary of
the data on health and environment shall be made available publically for
access and consultation.

23.- (1) Registration procedure is the process where the Council
approves the sale and use of a pesticide following the evaluation of
comprehensive scientific data demonstrating that the product is effective for
the purpose intended and not unduly hazardous to human or animal health or
the environment.

(2) The registration process requires that the Council shall:

(a) require the applicant for registration to submit comprehensive
Scientific data on toxicity and efficacy of the product to be registered to prove
that the product is effective for the intended use and not unduly hazardous to
human and the environment;

(b) require the applicant to provide evidence of field bio-efficacy and
residual result from the relevant research institute in Nigeria;

(c) provide standard label format and require the applicant to meet
label requirements with respect to each product intended for registration;

(d) grant registration certificate to a product if the product has met all
registration requirements as stipulated above and by the Council.
(3) The Applicant for registration shall:

(a) submit to the Council, comprehensive scientific data on the
toxicity and efficacy of the product intended for registration in Nigeria.
Such efficacy data must be based on research findings conducted in Nigeria
and or as may be determined by the Council;

(b) provide scientific information to satisfy the Council on label
claims;

(c) provide the Council, on request, all information and material
for analysis of product necessary for confirmatory tests by the Council;

(d) any other information that may be required by the Council.

24.- (1) Registration Requirements:

The applicant for registration must furnish documented proof to
support the claims made for the proposed product. Data required to support
registration may include the following:

(a) Toxicty Tests:

Toxicity tests on the proposed formulation must be conducted to
show that the use of the product would not be injurious to human, livestock,
wildlife and the environment when warnings and cautious are carefully
followed. The extent of toxicological data required will vary with the nature
and proposed usage of the product. Toxicity studies normally include:

(i) Acute mammalian studies;

(ii) Oral;

(iii) Dermal/skin;

(iv) Inhalation;

(v) Eye irritation.

(b) Sub acute Studies:

(i) Oral 90 days;

(ii) Dermal 21 days;

(iii) Inhalation 14 days.

(c) Other studies which may be required include:
1. Neurotoxicity;
2. Tetratogenicity;
3. Effects on reproduction;
4. Synergism;
5. Potentiation;
6. Metabolism;
7. Avian and fish toxicity;
8. Tolerance by beneficial insect.
9. Physical chemical properties:
   - Colour;
   - Boiling point;
   - Flash point;
   - Physical state;
   - Density;
   - Vapour pressure;
   - Solubility;
   - Stability.
10. Efficacy Data:
    Biological tests under field and laboratory trials conducted to determine if the product will control the pests named on the label, when used as directed, without causing significant adverse effects to the crop and environment being treated. The following factors are considered in determining efficacy:
    - Effectiveness. The product must be effective for the intended purpose when as used directed;
    - Phytoxicity;
    - Translocation within the plant being treated;
    - Persistence in soil, water air or plants;
    - Compatibility with other pesticides.
11. The Council shall determine whether or not to approve the
registration of the product after evaluation of the data submitted as well as
other applicable data.

(3) General Labelling Requirements:
(a) Name of product;
(b) Name and address of Manufacturer, Importer/Distributor;
(c) Pack size/net contents;
(d) Active ingredient statement;
(e) The shelf-life indicating date of manufacture and date of
expiration;
(f) Name and percentage (by weight) of each active ingredient, and
total percent of inert ingredients, or name of each active and each inert
ingredient in descending order, and relative abundance in each category and
the total percentage of inert ingredients;
(g) Warnings or caution statement in respect of:
(i) Ingestion;
(ii) Skin absorption;
(iii) Inhalation;
(iv) Eye irritation;
(v) Flammability or explosiveness.
(h) The required signal word as "DANGER", "WARNING", or
"CAUTION" and the statement "Keep Out of Reach of Children", must
appear on the front panel and meet the minimum type size requirements. The
front panel of the label of economic poisons which are highly toxic to human
must show:
"POISON" in red on a contrasting background
"DANGER"
Skull and Crossbones
Statement of antidote, including directions to call a physician immediately
(in immediate vicinity of skull and crossbones and "POISON").
(i) The registration number assigned to the product by the Council;
(j) Directions for use which are adequate to protect the public;

(k) Application rate;

(l) Waiting period and reentry interval;

(m) Safety statements and pictograms.

(4) Other Required information:

(a) Data to support any or all claims on the labelling;

(b) A complete statement of the composition of the products, including the percentage by weight of each of the active ingredients, if such information does not appear on the label;

(c) Any pertinent information about inert ingredients;

(d) Any other information pertaining to physical or biological properties of the product etc.

(5) Data Requirements for Pesticide Tolerance:

The criteria and data requirements for establishing tolerances are data and other information provided, when evaluated as a whole, should establish the safety of the proposed pesticide tolerance.

(6) The chemical residue data in pesticide petitions must meet two major requirements:

(a) If the residue data must delineate the identity and magnitude of the residues and must show that, under the proposed conditions of use, the proposed tolerance is suitable (i.e. will not be exceeded but is not higher than acceptable);

(b) the analytical methods used to obtain the residue data must be valid and must afford a measure of the total toxic residue. A suitable method must be provided for enforcing the proposed tolerance.

(7) Chemical Composition of Pesticide:

The identity and complete composition, including minor components and impurities, as well as accepted chemical (or biological) and common names are required. Specifications must be furnished if required to establish identity or to limit impurities.
(8) Conditions of Use:

Complete proposed directions for use must include proposed limitations and restrictions, such as usage in feeds for livestock, must be reasonable, practicable, and in conformity with accepted practices.

(9) Analytical Methods:

The Applicant must present or refer to a method suitable for confirming the proposed tolerance.

25.- (1) (a) The Council shall by regulation establish a procedure for accomplishing the periodic review of registrations;

(b) The regulations shall stipulate the review of pesticide registration in every 15 years. Within six months of the effective date of this Act, the Council shall establish re-registration procedures to ensure the periodic review of registered pesticides;

(c) The Council shall, within six months of coming into force of the regulation, establish re-registration procedures to ensure the periodic review of registered pesticides.

(2) If the Council determines that additional data are required to maintain an existing registration of a pesticide, the Council shall notify all existing registrants of the pesticide to which the determination relates, and all applicants for such registrations.

(3) (a) Each registrant or applicant for registration of pesticide shall provide evidence within 90 days after receipt of notification;

(b) Two or more registrants or applicants may agree to develop jointly, or to share in the cost of developing, such data if they agree and inform the Council of their intent within 90 days after notification.

(4) (a) The Council shall issue a notice of intent to suspend the registration of a pesticide if a registrant fails to comply with this clause, and may include in the notice such provisions as the Council deems appropriate concerning the continued sale and use of existing stocks of such pesticide;

(b) Any suspension proposed under this section shall become final
at the end of 30 days from receipt by the registrant of the notice, unless during that time a request for hearing is made, or the registrant has satisfied the Council that the registrant has complied with the requirements that served as a basis for the notice.

(5) Any data submitted under this section shall be subject to the provisions of Section 17(5) of this Act.

(6) The Council may at any time require data concerning any ingredient which the Council has reason to believe may pose an unreasonable adverse risk to human health or the environment.

(7) (a) The Council shall periodically review the pesticides marketed in Nigeria, their acceptable uses and their availability to each sector of the public, and conduct special reviews when indicated by scientific evidence;

(b) The Council may carry out health surveillance programs concerning populations who are occupationally exposed to pesticides, investigate as well as document cases of poisoning.

(2) Additional Information:

(1) If the registrant possesses or receives information relevant to the assessment of the risks or benefits, or the unreasonable adverse effects of any pesticide for which he holds a certificate, such information must be reported to the Council within 30 days after the registrant first possesses or obtains actual knowledge of:

(a) toxicological and ecological studies showing adverse effects of the pesticide;

(b) discontinued studies, if submission of such information concerning the study would have otherwise been required under this Act;

(c) information showing a correlation between exposure to a pesticide and observed adverse effects in humans;

(d) information on the presence of the pesticide in water, food or feed at a level in excess of established levels;

(e) information showing the existence of any metabolite or degrade
of a pesticide product not previously reported or at levels higher than any
previously reported and of toxicological or ecological significance;

(f) information about incidents affecting humans or other non-
target organisms:

(a) when the registrant has been informed that the person or non-
target organism suffered a toxic or adverse effect, or is likely to suffer a
delayed or chronic adverse effect in the future, and

(b) the registrant has or could obtain information concerning where
the incident occurred, the pesticide or product involved, and the name of a
person to contact regarding the information.

(2) Where registrants or applicants possess or receive information
described in this section following submission of an application must report
such information to the Council within 30 days after the applicant first
possesses or obtains actual knowledge of such information.

(3) The registrant or applicant need not submit information which
is clearly erroneous, previously submitted, published, or concerning only
former inerts, contaminants or impurities which have been eliminated from
the registered product.

27.- (1) The Council shall, within six months of coming into force
of this Act, issue requirements and procedures to be followed by any person
who stores, transports, or disposes of stocks of a registered pesticide, or any
pesticide the registration of which has been suspended or canceled.

(2) The Council shall, within six months of the effective date of this
Act, issue requirements and procedures to be followed by any person who
stores, transports, or disposes of stocks of any container of a pesticide, any
rinseate containing the pesticide, or any other material used to contain or
collect excess or spilled quantities of the pesticide.

28.- (1) Suspension:

(a) If the Council determines that action is necessary to prevent an
imminent danger during the time required for cancellation procedures
described in this section, the Council may, by order, suspend the registration of
the pesticide immediately;

(b) No order of suspension may be issued under this section unless the
Council has issued, or at the same time issues, a notice of intention to cancel the
registration. The Council shall notify the Registrant prior to issuing any
suspension order, including findings pertaining to the question of "imminent
danger," and the registrant shall then have an opportunity for an expedited
hearing before the Council on the question of whether an imminent danger
exists and how to mitigate it;

(c) Notwithstanding Section 9(a), (2), whenever the Council
determines that an emergency exists that does not permit the Council to hold a
hearing before suspending, the Council may issue a suspension in advance of
notification to the registrant. The Council shall proceed to issue the
notification within 90 days of issuing an emergency order, or such emergency
order shall expire.

(2) Cancellation:

(a) A registrant may, at any time, request that a pesticide registration
of the registrant be canceled or amended to terminate one or more pesticide
uses and such request shall be granted by the Council along with provisions for
existing stocks of the pesticide determined in consultation with the registrant;

(b) If it appears to the Council that a pesticide or its labeling or other
material required to be submitted does not comply with the provisions of this
Act, or, when used as directed, generally causes unreasonable adverse effects
on the environment, the Council may issue a notice of the Council's intent
either:

(a) to cancel its registration or to change its classification together
with the reasons (including the factual basis) for the Council's action, and, if it
determines that the intention is justified,

(b) to hold a hearing to determine whether or not its registration
should be canceled or its classification changed. The hearing and judicial
review procedures described at Section 6 (1)(3)(C) shall be applicable.

(3) Existing Stocks:
The Council may permit the continued sale and use of existing
stocks of a pesticide whose registration is suspended or canceled under such
conditions, and for such uses as the Council determines that such sale or use
is not inconsistent with the purposes of this Act.

29.- (1) Any pesticide imported into Nigeria shall be registered, or
otherwise exempted from registration, consistent with the requirements of
this Act.

(2) Any pesticide or active ingredient used in producing a pesticide
intended for export to any foreign country shall be subject to the
requirements of subparagraph (c)(i)-(ii) below.

30. Implementation of Rotterdam Convention Concerning
Hazardous Chemicals and Pesticides in International Trade ("Rotterdam
Convention"):

(a) In accordance with Article 11 of the Rotterdam Convention,
exporters shall ensure that exports of substances listed on Annex III to
countries that are Parties to the Rotterdam Convention comply with import
responses provided by those countries. Where the importing Party has not
submitted a response; export is allowed provided that; at the time of import,
the pesticide is registered in the importing Party; or it is a chemical for which
evidence exists that it has previously been used in, or imported into, the
importing Party and in relation to which no regulatory action to prohibit its
use has been taken; or explicit consent to the import has been sought and
received by the exporter through a designated national authority of the
importing Party;

(b) Where a pesticide produced for export has been banned or
severely restricted for domestic use in Nigeria, the Council shall provide an
export notification to the importing Party in accordance with article 12 of the
Rotterdam Convention. The export notification shall include the
information set out in Annex V of the Rotterdam Convention;
(c) In accordance with article 10 of the Rotterdam Convention, the
Council shall ensure that it has transmitted to the Secretariat of the Convention
a response concerning the import of each pesticide listed on Annex III of the
Convention. The response shall identify whether the pesticide may be
imported, may not be imported, or may be imported only subject to conditions.
If the Council takes a decision not to consent to import of a pesticide or to
consent to its import only under specified conditions, it shall ensure that
imports or domestic production of the pesticide for domestic use are subject to
the same prohibition or conditions.

30. No person shall manufacture any pesticide or active ingredient
used in producing a pesticide unless the establishment in which it is
manufactured has obtained the appropriate Manufacturing Permit, if required
by separate manufacturing legislation. Any manufacturer may seek a pesticide
registration from the Council once it has complied with such legislation.
Persons who manufacture pesticides must keep records for a specified period.
Such persons must make their books and records available for inspection by the
Council at reasonable times. The Council shall keep records of all of its
decisions and deliberations.

31. The Council shall, within six months of the coming into force of
this Act, shall publish quality standards, including a certification requirement,
for all pesticide retailers and distributors. Following such publication, the sale
or distribution of a pesticide without the required retailer/distributor
certification shall be prohibited.

32.- (1) Advertising:
(a) Only pesticides which are registered may be advertised;
(b) Any claims made in the advertising of a pesticide must be
consistent with the claims accepted by the Council.
(2) Marketing:
(a) Only pesticides manufacturers and importers or their accredited
registered distributors shall market pesticides in Nigeria and in approved
premises;
(b) Pesticide can only be procured/purchased from registered,
authorized and licensed (Accredited) Dealer and Agents;
(c) All manufactures and importers shall register their accredited
Dealers and Agents with the Council;
(d) It shall be an offence to store or sell pesticides in the same
premises in which foodstuff, animal feeds and drugs are sold or displayed;
(e) The Council shall have the power to de-register any
manufacturer, importer, accredited Distributor/Dealer/Agent who
contravenes any of the provisions and guidelines with respect to safe,
effective use, transportation, storage and handling of pesticide;
(f) No Manufacturer, Importer, Distributor, Dealer and Agent shall
display or sell any pesticide that has been de-registered, banned or expired.

33.- (1) Offences:

It is unlawful for any person to:
(a) sell or distribute a pesticide which is not registered or which has
not been given provisional clearance by the Council;
(b) sell or distribute a pesticide without an approved label attached
to it;
(c) sell or distribute a pesticide which is misbranded or which does
not meet the specifications as stated when the product was registered;
(d) detach, alter, deface, or destroy any label on the container of a
pesticide product;
(e) repackage or transfer the contents of a pesticide product unless
the new container is labeled with an approved label and unless the operation
is carried out in a registered manufacturing establishment;
(f) advertise a pesticide which is not registered, or in a manner that
is misleading or inaccurate;
(g) supply a pesticide which is packaged in a container which has
deteriorated, or has been damaged so as to be dangerous in storage or transport, or when opened for use;

(h) use a pesticide in a manner which is not consistent with the conditions on the approved label;

(i) make false statements or provide false information in the application for registration, or licensing and certification or in required reports or records;

(j) knowingly release confidential information;

(k) Sell or use a product with experimental user permit.

(2) Penalties:

(a) For any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act, the Council may impose a civil penalty of not more than One Million Naira (N1,000,000) or imprisonment for a term not exceeding Two (2) years, or both for each offense;

(b) Any private applicator or other person who violates any provision of this Act subsequent to receiving a written warning from the Council or following a citation for a prior violation may be imposed a civil penalty by the Council of not more than One Million Naira (N1,000,000) or imprisonment for a term not exceeding Two (2) years, or both for each offense;

(c) Any registrant, applicant for a registration or producer who knowingly violates any provision of this Act shall be fined not more than ten Million Naira or imprisoned for not more than Five (5) years, or both. Any private applicator or other person who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than One Million Naira (N1,000,000), or imprisoned for more than two (2) years, or both.

(3) Enforcement of Compliance:

(a) There shall be an Inspectorate division of the Nigerian Pesticide Council that shall have responsibility to monitor compliance with this Act. The
Department shall have appropriate laboratory facilities for analysis;

(b) The Council shall designate certain technically qualified personnel of the Pesticide Inspectorate Division as pesticide inspectors and pesticide analysts;

c) A person shall not be designated a pesticide inspector unless he/she is a graduate with at least a BSc. or HND in Agriculture, Chemistry, Biochemistry or any other related discipline;

d) A person shall not be designated a pesticide analyst unless-

(i) he/she is a graduate in chemistry with advanced degree in organic chemistry;

(ii) produces evidence of technical post-graduate training in analytical chemistry and pesticide residue analysis;

(iii) has at least five years of continuous post-graduate working experience in pesticide residue analysis.

e) A Pesticide Inspector may, in the course of his duty, at any reasonable time and on the production of his/her certificate of designation if required:

(i) enter (if need by force) any premises in which he reasonably believes that any product to which this Act or the regulation apply is manufactured, formulated, prepared, preserved, packaged, re-packaged, stored or sold;

(ii) examine any product in the premises which appears to him to be a product to which the Product or the regulations apply or anything in the premises which he reasonably believes is used for the manufacture, formation, preparation, packaging, storage or sale of the product;

(iii) open and examine any container which he believes contains a pesticide, take a sample of specimen of any product to which this Act applies for further examination;

(iv) Examine any books; documents, facilities, and any other
infrastructure relevant to the enforcement of this Act have been contravened;
(v) seize, and when necessary dispose of pesticides or containers
where he reasonably believes that the provisions of this Act has been
contravened;
(vi) a seized product found on examination by the pesticide
Inspectorate department to conform with the requirements of this Act shall be
returned from whom it was seized;
(f) No person shall obstruct or resist a pesticide inspection officer in
the execution of his duty under this Act without the authority of an inspecting
officer remove, alter or interfere in any way with any product seized under this
Act.

34. The Council may exempt any of the government agencies from
any provision of this Act if the Council determines that emergency conditions
exist which requires such exemption. The Council may allow certain pesticides
that are not registered to be used in emergency situations to control certain pest
outbreaks in agriculture or public health under exceptional circumstances. The
Council shall publish procedures regarding the approval for the use of such
pesticides under this section.

35.-(1) Preemption:
No local authority shall impose or continue in effect any requirements
for the labeling, packaging, testing or registration of a pesticide in addition to or
different from those required under this Act. All claims under any law other
than this Act which seek to challenge the registration of a pesticide issued under
this Act are expressly preempted.

(2) Repeal:
(a) This act repeals any Act, statute and any other legislation that is
inconsistent with the provision of this act and shall be declared Null and Void to
the extent of its inconsistency;
(b) Any approval granted under the repealed enactment shall continue
to be in force notwithstanding the repeal.
36. The Minister of Agriculture may by order make such transitional provisions as it appears to him necessary or expedient to give full effects to the provisions of this Act.

37. The Council may make regulations:

(1) providing for anything requiring to be prescribed under this Act generally for carrying out the principles and objectives of this Act.

(2) any instrument issued under sub-section (1) of this section shall be under the signature of the Chairman of the Council or any other officer of the Council as may be designated by the Chairman.

38. In this Bill:

ACTIVE INGREDIENT: The biologically active part of the pesticide;

ADJUVANT: Any adhesive, deposit, builder, emulsifying agent, spreading agent, synergist or wetting agent intended to be used as an aid to the application or effect of a pesticide;

APPLICANT: The party (manufacturer, importer or their representative) that makes an application for registration of a pesticide to the Nigeria Pesticide Council;

CAPITAL means all cash contributions, plant, machinery, equipment, building, spare parts, raw materials and other assets other than goodwill;

COUNCIL means the Nigerian Pesticide Council established under Section (1) of this Act;

ENVIRONMENT includes water, air, land, all plants, man, and or her living animals and other organisms;

FORMULATION: The combination of various ingredients designed to render the product useful and effective for the purpose claimed; the form of the pesticide as purchased by users;

INERT INGREDIENT: An ingredient which is not an active ingredient;

INGREDIENT STATEMENT: A statement which contains the name and percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide;
LABEL: The written, printed or graphic matter on, or attached to, the pesticide; or the immediate container thereof and the outside container or wrapper of the retail package of the pesticide. Includes all other written, printed or graphic matter accompanying the pesticide at any time, or to which reference is made on the label or in literature accompanying the pesticide, except current government publications.

MANUFACTURER: A corporation or other entity in the public or private sector, or any individual engaged in the business or function (whether directly or through an agent or though an entity controlled by or under contract with it), of producing a pesticide active ingredient or preparing its formulation product.

MISBRANDED: A pesticide is misbranded if:

(i) its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(ii) it is an imitation of, or is offered for sale under the name of, another pesticide;

(iii) its label does not bear the registration number assigned by the Council to each establishment in which it was produced;

(iv) in the case of a pesticide intended for export, the label does not conform to any existing export regulations.

PERSON means an individual and shall include corporate body, a limited liability company, a charitable organization, or association of a partnership of any number of persons.

PEST: means any insect, rodent, nematodes, fungus, weed or any other form of plant or animal or virus or bacteria or other micro organisms which the chairman declares and scientifically justifies as a pest;

PESTICIDE: Any substance or mixture of substances intended for preventing, destroying or controlling any pest, including vectors of human disease, or unwanted species of plants or animals causing harm during or otherwise interfering with the production, processing, storage, transport, or marketing of
food, agricultural commodities, wood and wood products, or animal
feedstuffs; any substance or mixture of substances intended for use as a plant
regulator, defoliant, desiccant, or agent for thinning fruit or preventing the
premature fall of fruit; or any substance or mixture of substances applied to
crops either before or after harvest to protect the commodity from
deterioration during storage and transport;

PESTICIDE COUNCIL: The Evaluation and Adjudication Board of
Pesticide Registration, which is the legally appointed body that takes the
final decision on the request for registration;

PICTOGRAM: A symbol which conveys a message without words;

PLANT GROWTH REGULATOR: Any substance or mixture of substances
intended, through physiological action, for accelerating or retarding the rate
of growth or rate of maturation of a plant. This term shall not include
substances intended as plant nutrients, trace elements, nutritional
chemicals, plant inoculants, and soil amendments. This term shall also not
include any nutrient mixtures or soil amendments that are commonly known
as vitamin-hormone horticultural products, intended for improvement,
maintenance, survival, health, and propagation of plants, and that are not for
pest destruction and are nontoxic, non-poisonous in the undiluted packaged
concentration;

POLLUTION means man-aided alteration of the chemical, physical,
ecological or biological quality of the environment.

REGISTRANT: A person who has registered any pesticide pursuant to the
provisions of this Act;

REGISTRATION: The process whereby the responsible national
government authority approves the sale and use of a pesticide following the
evaluation of comprehensive scientific data demonstrating that the product
is effective for the purposes intended and is protective against any
unreasonable adverse effects on human health or the environment;

RESIDUE means the amount of Pesticides that may remain in or on food,
animal feed and or the environment;
RESPONSIBLE AUTHORITY means the statutory body in charge of
evaluation and approval of requests for registration and any other competent
department specifically authorized by law to regulate the manufacture,
distribution or use of pesticides and more generally for implementing pesticide
legislation in this case, "Nigeria Pesticide Council";
WASTE include industrial products that are no more usable and have become
obsolete and could be solid, liquid or gases that are found to contain substances
such as Sulphur dioxide, Oxides or Nitrogen, Hydrogen sulphide, Carbon
monoxide, Ammonia, corrosive, reagent, flammable liquid and solid, poison,
Poly-chloringlodiphenyils, Dynocyanide, Methyl-melamine, Ethylacetate,
toxic substance radioactive materials, asbestos, expired pesticides and their
containers and contaminated pesticides containers.

39. This Bill may be cited as the Nigerian Pesticide Council Bill,
2021.

SCHEDULE I

SUPPORTING STAFF OF THE COUNCIL

1. The Council shall have an Executive Secretary who should be a
Scientist with at least twelve (12) years experience in the field of pesticide. The
Executive Secretary will implement policies, decisions and directives of the
Council. The Council shall have the following Directorate who shall report to
the Executive Secretary:

  Director Technical Services

2. The Director Technical shall be a Scientist with vast knowledge in
field of pesticide with at least ten (10) years experience. The Director shall
advise the Council through the Executive Secretary on all matters of Pesticide
Registration.

  Director Finance & Administration

3. The Director Finance & Administration shall be a graduate with at
least 10 years experience in the field of Accounting & Finance. He shall advise
the Council through the Executive Secretary on all matters of finance and
administration.

Director Inspectorate Division

4. The Director for Inspectorate Division shall be a qualified and
competent Scientist with at least ten (10) years experience in the field of
pesticide. He shall advise the Council through the Executive Secretary on all
matters of regulation of toxicity, efficacy and monitoring of pesticide. There
shall be a Central Laboratory and six (6) zonal laboratories to represent the 6
Geopolitical zones of Nigeria. The Central Laboratory, Library and Data
Bank shall be under this directorate.

Director Planning & Training

5. The Director Planning & Training shall be a Scientist with vast
knowledge in field of pesticide with at least ten (10) years experience. The
Director shall advise the Council through the Director General / Executive
Secretary on all matters of general planning and trainings.

6. Each zonal laboratory will be appropriately staffed for the
discharge of its functions and to be headed by a Chief Scientific Officer, with
appropriate training in pesticides and or pest control who will be responsible
to the Director Inspectorate Division.

SCHEDULE II

SUPPLEMENTARY PROVISION RELATING TO THE COUNCIL, ETC

Proceedings of the Council

1. Subject to this Act, and Section 41 of the Interpretation Act, the
council may make standing orders regulating its proceedings or those of any
of its committees.

2. The quorum of the Council shall be Five(5) members, including
the chairman or in his absence the person elected to preside, and Two other
members from the public sector and also two from the non-public sector.
The quorum of any committees of the council shall be determined by the
Council:
(i) The Council shall meet once a quarter in each calendar year and subject thereto, the council shall meet whenever it is summoned by the Chairman, and if the Chairman is required to do so by notice given to him by not less than four other members (2 from public and 2 from non-public sector), he shall summon a meeting of the Council to be held within 14 days from the date on which the notice is given;

(ii) At any meeting of the Council, the chairman shall preside but if he is absent, the members present at the meeting shall elect one of their number to preside at the meeting;

(iii) Where the Council desire to obtain the advice of any person or group on a particular matter, the council will co-opt him or group to the Council for such period as it thinks fit but such a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote any meetings of the Council and shall not count towards a quorum;

(iv) The decision of the Council shall be by simple majority.

Appointment of Ad-hoc committee

3.- (i) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the council may determine;

(ii) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Council) as may be determined by the Council and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his/her appointment;

(iii) The decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

4.- (i) The fixing of the seal of the Council shall be authenticated by the signature of the Chairman or any person specifically authorized to act for that purpose by the Council;

(ii) Any contract or instrument which, if made or executed by a person
not being a body corporate, will not be required to be under seal and may be
made or executed on behalf of the Council by the chairman or any person
specifically authorized to act for that purpose by the Council;

(iii) The document purporting to be a document duly, executed
under the seal of the council shall be received in evidence and shall unless
and until the contrary is proved, be presumed to be so executed;

(iv) The validity of any proceeding of the Council or of a
committee thereof shall not be adversely affected by any vacancy in the
membership of the Council or committee, or by any defect in the
appointment of a member of the Council or of a committee, or by reason that
a person not entitled to do so took part in the proceedings of the Council or
committee.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for establishment of the Nigerian Pesticide
Council.