

COUNCIL NOTES OF IFUEKO OMOIGUI OKAURU, THE CHAIRMAN JOINT TAX BOARD (JTB) ON UPDATE ON INCESSANT COMPLAINTS OF MULTIPLE TAXATION, EXTORTION AND OTHER INJUSTICES BY LIVESTOCK, FRUITS AND VEGETABLE MERCHANTS TO THE MEETING OF NATIONAL ECONOMIC COUNCIL OF 15TH JUNE, 2010, AT ASO ROCK VILLA, ABUJA.

At the last National Economic Council Meeting held on April 20, 2010, the following facts were highlighted regarding the complaints of multiple taxation by Livestock, Fruits and Vegetable Merchants:

I FACTS

1. Issues of Multiple Taxation have been an ongoing issue for a very long time and are not peculiar to this sector; The Association of licensed telecommunications operators and the Manufacturers Association of Nigeria (MAN) have also complained severally of this issue – the recent cargo tracking levy approved by the Federal Executive Council is another case in point;
2. Study of the Multiple Taxation menace over twelve years ago resulted in the promulgation of the Approved list of Collection (Act 21 1998) for clarity; yet the problem continues without a clear end in sight;
3. As indicated in the memo presented by the Minister of Agriculture at the meeting, the National Council of Agriculture has met severally to address this recurring issue but resolutions from the meetings not adhered to; In addition, the resolution of the meetings held with the Minister of Agriculture on March 15, 2010 and presented in the Council Memo of April 20, 2010, yet resolutions are yet to be complied with;
4. Several communiqués have been issued by the Joint Tax Board on this same issue to educate the public on the provisions of the law which interalia prohibit:
 - a. roadblocks for revenue collection (Taxes and Levies (Approved list of Collection) Act 21 1998)
 - b. use of consultants and touts for revenue collection (Taxes and Levies (Approved list of Collection) Act 21 1998)

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- c. charging tax on an income or transaction of a tax payer more than once (Nigerian Constitution)
5. Members of the association have taken complaints to court and obtained a court injunction to restrain government agencies and individuals; this court injunction has not been complied with;
6. Letters written on February 16 2010 to the bodies listed below by the Legal Adviser of the Amalgamated Food Stuffs and Cattle Dealers Association of Nigeria (AFSCDA) gave notice of strike action if complaints not addressed
 - Ministry of Agriculture
 - Minister of Finance
 - Senate President;
7. Subsequent to the notice of strike action, members of the association of food merchants embarked on a nationwide strike from March 8th to 15th (to get heard and their complaints addressed); which resulted in a significant price hike in food commodities (one tomato was said to have cost N200 and no meat was available for sale);
8. Another strike action planned for April 21st 2010 was suspended as a result of the various interventions to allow for the committee set up by Joint Tax Board to meet and develop lasting solutions to the problem;
9. Meetings held with the Joint Tax Board on April 15, 2010 resulting in a setup of a committee to amongst others ensure that the following are achieved:
 - i. The Chairmen of the Boards of Internal Revenue are to work with their Commissioners of Finance, Commissioners of Agriculture in their States to convene a meeting with their State Governors and the Association to arrest the situation (this was driven by the fact that actions taken by the Ogun state and to some extent Lagos state was specifically noted and commended);

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- ii. the AFSCDA should go back to the court to vary the injunction given such that it is not just for parties to maintain status quo pending the determination of the substantive case, but to “maintain status quo ante belum” to make it clearer and more specific to their needs;
 - iii. they are also advised to file an abuse of human rights case in court as actions been taken by the illegal agents (beatings, humiliation, extortion et al) are a serious breach of their fundamental human rights and in violation of the constitution
 - iv. The Chairman, Joint Tax Board to bring this issue to the attention of the relevant agencies of government (Nigeria Police Force, Nigeria Customs Service et al) , the Minister of Finance, the Secretary to the Government of the Federation, the State Governors and the Acting President; that in so doing beyond the issues of erosion of government’s revenue base, the looming threat to the security of the nation should be emphasized
 - v. A Joint Press Conference be convened to educate the publics on the existing laws of the land and the violations of such laws by persons involved in such illegal actions, the problems being faced by the members of the association and the need for the general public to collectively rise against this menace – this will be done on approval of the prayers in this memo
- b. That a Joint Committee made up of members of the Joint Tax Board and the AFSCDA to develop a plan for a sustainable solution (e.g. centralization of collection) to the issues raised for presentation to the National Economic Council and the National Council of States – this memo is the outcome of the work of the joint committee

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10. Revenue collection in the States and Local Governments (including the Federal Capital Territory (FCT)) is a major source of patronage for political friends and monies collected hardly accrue to government

II WORK DONE SINCE THE LAST NATIONAL ECONOMIC COUNCIL MEETING OF APRIL 20 2010

The Joint Tax Board uses this opportunity to thank the National Economic Council for approving and communicating its stance against multiple taxation and revenue contractors/"consultants" as publicized after the last National Economic Council Meeting. It provides a strong platform to build on.

Further to the earlier presentation to the National Economic Council on the above subject matter, the Joint Tax Board has achieved the following:

1. Directed the Chairmen of the Boards of Internal Revenue at the last Joint Tax Board Meeting held between 26th - 28th April 2010 to work with their Commissioners of Finance and Commissioners of Agriculture in their States to convene a meeting with their State Governors and the Association to arrest the situation; Meetings are yet to be convened as agreed but hopefully remains work in progress;
2. The Chairman, Joint Tax Board has brought the matter to the attention of the following bodies with the following outcomes:
 - a. The Minister of Finance – we have briefed the Hon Minister of Finance on the menace of multiple taxation and its effect on the competitiveness of doing business; it now forms a critical part of the agenda for the National Economic Management Team headed by the Minister of Finance; the outcomes of this national economic meeting will contribute to achieving a resolution of the issues raised;

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- b. The Nigeria Police Force – the matter was informally brought to the attention of the IGP and a meeting held with the DIG operations on the matter. Resolutions from this meeting were:
 - (i) a nationwide tour of all illegal tax collection points to be carried out,
 - (ii) Collectors of such levies to be identified and to confirm if they were assigned by state or Local Governments. We have also followed up with a formal notification and an acknowledgement of work done to date with additional areas required for attention;
 - c. The Nigeria Customs Service – we have briefed the CG Nigeria Customs Service on the issues raised and a meeting is to be scheduled for the members of the association to meet with the CG, Customs;
 - d. The Secretary to the Government of the Federation – had requested the matter to be addressed based on complaints received and we have kept the office of the SGF informed of progress made to date
 - e. The Presidency and State Governors- we are using the platform of the National Economic Council to address issues raised with the hope that this meeting will approve prayers presented
3. The members of the Joint Tax Board, the AFSCDA and the Nigerian Police Force have worked to conduct a nationwide survey for presentation to NEC in order to properly identify all issues (with appropriate police protection) relating to incidence of Multiple Taxation in Nigeria, to develop a plan for a sustainable solution to the issues raised for presentation to the National Economic Council and ultimately bring this matter to a close;

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III REPORT OF THE NATIONWIDE SURVEY CONDUCTED

1. Working on various reports of illegal collection of taxes and levies on the highways across the country, a tour of all the six geo- political regions was carried out in the past four weeks. This tour was aimed at identifying the location, types of taxes/levies or fees charged, mode of collection or operations of those involved in these acts and identity of the operators;
2. Given the complex nature of and dimension the practice of imposing illegal taxes and levies has taken in recent times, and the time available, this report is limited to its effects on the informal sector, with particular emphasis on trading in livestock, food, fruits and vegetables.
3. The following findings corroborated earlier presentation made:
 - a. Items on which levies are imposed include cattle, yam, cereals, tomatoes, onions, goats, sheep and fruits;
 - b. Illegal Check-points are mounted on highways in most States of the Federation; the Specific States noted in this report are Kogi (Ankpa), Benue (Zaki-Ibiam), Edo (Auchi), Enugu (Obolafor), Anambra (Onitsha), Taraba (Jalingo), Rivers (Port-Harcourt), Ogun (Ogere), Oyo (Ogbomosho), Kebbi (Yawuri), Lagos (Berger), Ondo (Owena);
 - c. Cattle dealers and food stuff traders are charged between N18,000.00 and N30,000.00 per truck at each point; a point is described as a road block on a highway where these illegal levies are collected. The money is usually paid at each point as the traders move along their routes, meeting at least 15 check-points irrespective of any route chosen before reaching their destination;
 - d. Traders are forcefully stopped by the operators who normally use nails fitted on planks or iron rods and machetes and this goes on for 24 hours each day;
 - e. The process of stopping the vehicles/trucks and collecting money sometimes turns violent where weapons of all kinds are used freely to attack and compel the traders and transporters to pay up;
 - f. Monies collected are usually under-receipted or not receipted at all;

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- g. Most of the collectors claim to be staff of State Ministries of Agriculture and Veterinary or Commerce and Industry; Other collectors also claim to be working for Consultants or Contractors assigned by State or Local Government Officials;
- h. Designated national veterinary control posts as enacted in law, with specifically agreed minimal charges are not been complied with, with each State now handling their own “checks” on livestock and charging indiscriminately with the use of designated contractors;
- i. The tax/levy collectors usually operate under the influence of alcohol and hard drugs which make them prone to other criminal activities especially at night;

Video clips and photographs taken at various check-points have been collated as a documentary and power point presentation contained in the CD to be presented during this Council meeting.

IV IMPACT ASSESSMENT

The effects of this menace are numerous as it not only undermines the entire tax administrative system and detrimental to the growth of the economy but is also viewed as a security threat to the country. It also violates the tax regime enshrined in the recently approved National Tax Policy. Notable among the effects of Multiple Taxation in this sector include but not limited to:

1. Food items and other related items end up being triple or quadruple the cost at the time it reached its final destination, making goods uncompetitive in the market place. For example, the cost of a cow is N50,000.00 at point of embarkation and N150,000.00 (Onitsha/Port-Harcourt) – N180,000 (Lagos) at point of delivery; - this result in an **implied tax of 200% to 260%**;
2. A consequence of the current situation is that the effect of multiple taxation is a tax on goods that is in multiples of the cost of the good itself, resulting in a clearly uncompetitive situation and an unjustifiable cost of doing business;
3. The current situation renders economic planning difficult and meaningless as the planning process is affected by erroneous economic assumptions.

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Authentic data in these transactions are not available to relevant Government Agencies during annual budget and planning process ;

4. Feelers received in communicating with Traders revealed that they are on the verge of taking laws into their hands; this constitutes a major threat to security of lives and property.
5. Most of the check points though claim to be agents of Government use private receipts , even where Government are used, the money collected are not properly accounted for; These suggests an uncontrollable corrupt environment which deters economic development.
6. The traders under an Amalgamated body on 28th May, 2010 have given a 21-day ultimatum to embark on a nationwide strike action if Government fails to meet their request for decisive action to put an end to the daily harassment they suffer on Nigeria highways in the hands of illegal levies collectors. Any such strike could lead to a National food crisis;

V CONCLUSION

The menace of Multiple Taxation is a reality with serious consequences for the economy and security. Addressing this problem requires collective will and action.

VI PRAYERS

The Council is respectfully invited to:

1. **note** the plight of the cattle, food and Vegetable traders caused by incessant imposition of illegal taxes, levies and fees by state and Local Government and the often violent means employed to collect such levies;
2. **note** the negative effect of multiple Taxation on the competitiveness of the economy and the cost of doing business;
3. **note** that there is a need for recognition that revenue generation should not be at the expense of building a competitive environment and increase in the cost of doing business;

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4. **note** that the last National Economic Council decision to collectively and individually resolve to sincerely stop these illegal tax/revenue collections is an excellent step and provides a strong platform to build on;
5. **note** that given the inherent threat to life and property, food and vegetable merchants are at their wits end and it would appear that there is looming breakdown in law and order, and need to move from directives to enforcement/action;
6. **note** that the JTB supports the recommendations of the Minister of Agriculture as included in council memo of April 20 2010 that:
 - a. i – that the attention of the State Governors should be drawn to these multiple and illegal revenue drives with a view to proffering an immediate solution to the problem - **supported**
 - b. ii – that relevant law enforcement agencies should be directed to stop these multiple and illegal collections - **supported**
 - c. iii- that States should identify and designate legal loading and disembarkment points - **supported**
 - d. iv- that originating States and Local Governments should issue movement and loading permits respectively - **supported**
 - e. vi- that transit states where animals are passing through should only endorse the movement permits and charge only when traders cannot show evidence of payments for their animals from originating states – **supported**;
7. **note** the role of the UTIN project as approved by the NEC as one of the long term solutions to developing national taxpayer database and to address this menace; this would also address all other issues raised in the memo by the Minister of Agriculture; this would be further supported by the coordination of all revenue generated in the State by the revenue authorities in the state;
8. **note** that contrary to the recommendation of the Min of Agric in vii, Use of consultants for revenue collection is illegal;

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9. **approve** that a special committee of Governors be setup to recommend and reach an agreement on practical steps to eliminate this issue once and for all with consideration for the following recommendations:

- i. All Executive Governors (including Mr. President (through the Hon. Minister of FCT) for the Federal Capital Territory to **issue an** executive order (gazetted) directing suspension of all levies and charges by state and Local Governments until ongoing investigation and review is concluded; and declaring use of “consultants” /contractors in the collection of revenue as well as the imposition and collection of any tax or levies outside what is prescribed by the Taxes and Levies Act of 1998 ,as illegal, without prejudice to any similar matter thereon;
- ii. **direct** all the State and Local Governments to immediately stop further collection of illegal taxes and levies on highways in Nigeria;
- iii. **direct** the Inspector General of Police to immediately dismantle all illegal tax collection points on Nigeria highways where any forms of Taxes, Levies are collected and, arrest and prosecute the perpetrators of such acts as provided for under the provisions of the Taxes and Levies Act of 1998 which forbids the collection of any taxes and levies on any highway across Nigeria;
- iv. **amend** the Taxes and Levies Act to centralise collection of taxes required for goods that transit from one State to the other with a mutually desirable body such as the FIRS, with an agreement signed to by all State Governments and enacted into their various Houses of Assembly, with an agreed distribution formula amongst States and Local Governments for the sharing of such revenues collected; Purpose would be to achieve certainty in rates, simplicity in collection and

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accountability for all taxes and charges collected for the coffers of government;

- v. **enact** revenue codes/laws on charges and levies chargeable within every State - specifying and clarifying what is legally collectible in each State and Local Government; Intra State trade should be exempt from such; role of the state revenue authority in revenue coordination;
- vi. **address** issues relating to ensuring full compliance of existing laws yet to be fully complied with:
 - 1. Resuscitation of the Joint Revenue Committees at the State Government level
 - 2. Federal Inland Revenue Service (FIRS) to collect taxes and levies on behalf of local governments in the FCT
 - 3. State Internal Revenue Service (SIRS) to collect taxes and levies on behalf of local governments in their States
 - 4. Law enforcement agencies to dismantle and guard against revenue collection road blocks/collection points et al

10. **approve** that a Joint Press Conference between JTB and AFSCDA be convened, on approval of the prayers in this memo, to educate the public on the existing laws of the land and the violations of such laws by persons involved in such illegal actions, the problems being faced by the members of the association and the need for the general public to collectively rise against this menace;

11. **note** that the traders under an Amalgamated body on 28th May, 2010 have given a 21-day ultimatum to embark on a nationwide strike action if Government fails to meet their request for decisive action to put an end to the daily harassment they suffer on Nigeria highways in the hands of illegal levies collectors. Any such strike could lead to a National food crisis.

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- 12.**note** the need for all security agencies to be on alert and proactively deal with the challenges raised and **approve** the inclusion of the menace of multiple taxation and its consequences as part of the agenda for Security Council Meetings held; and the need to decisively and publicly deal with erring officers in this regard
- 13.**approve** the elimination of Multiple Taxation as a national emergency and priority action step for the National Economic Management Team and National Economic Council with specific timelines set for achievement.

Please accept my assurances of the highest regard. Thank you.

Ifueko Omoigui Okauru
Chairman, Joint Tax Board.