FISCAL ISSUES AND THE BUDGET

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ABBREVIATIONS

BOF Budget Office of the Federation

CBN Central Bank of Nigeria

CSJ Centre for Social Justice

ECA Excess Crude Account

FRA Fiscal Responsibility Act

GDP Gross Domestic Product

MDA Ministries, Departments and Agencies of Government

MTEF Medium Term Expenditure Framework

MYTO Multi Year Tariff Order

NEC National Economic Council

NEEDS National Economic Empowerment and Development Strategy

NERC Nigeria Electricity Regulatory Commission

PHCN Power Holding Company of Nigeria

RCP Reference Commodity Price

SWF Sovereign Wealth Fund

USD United States Dollar

VAT Value Added Tax

EXECUTIVE SUMMARY

This report documents key fiscal activities within the first six months of the year 2010. It is focused on reviewing governmental obligations under the Fiscal Responsibility Act ("FRA") and other extant laws that greatly impact on public expenditure management. It also reviews the fiscal activities of government agencies. The FRA was made as an Act to provide for prudent management of the nation's resources, ensure long-term macro-economic stability of the national economy, secure greater accountability and transparency in fiscal operations within a medium term fiscal policy framework, and the establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the nation's economic objectives; and for related matters. But how far have the Federal and State Governments gone with the implementation of the FRA? Are we making progress or deteriorating? Has the mischief in the law before the enactment of the FRA been cured through the advancement of remedies provided in the law?

Issues covered in this report include the full extent of the implementation of the 2009 capital budget, late passage of the 2010 budget, the failure of the Accountant-General of the Federation to prepare the Annual Cash Plan and the failure of the Minister of Finance to prepare the Disbursements Schedule. The Minister's duty through the BOF to report on budget implementation has fallen into arrears while the preparation of the MTEF 2011-2013 is yet to commence. A supplementary budget has been presented to the National assembly alongside a request to amend the original 2010 budget. The 2010 budget contains allocations to an un-existing Maritime Security Agency while proposals to increase VAT had been floated.

The report treats the fiscal issues in electric power sector reforms. These are the over N70 billion indebtedness of consumers to PHCN, lack of pre-paid metres, proposed increase in tariff, the failure to establish the Power Consumer Assistance Fund and the need for a long term source of funding electricity investments. The proposal to increase federal legislator's allowances was reviewed. The depletion of the ECA against the letter and spirit of the FRA comes to the fore while the proposal to establish a SWF attracted comments on what should ideally be its trajectory. Accumulation of debts by sub-national governments is discussed and the depleting foreign reserve is put on the search light. Fiscal issues in football administration reveal that hiring a foreign coach on a salary of N45 million a month amounted to a waste of scarce resources. The liquidity in the system, contradictory credit squeeze and high lending rates are analysed. Finally, civil society work and its representation on the FRC are discussed.

The report ends with recommendations to the President and NEC, the Minister of Finance, the National Assembly, Minister of Power and NERC, PHCN and its unbundled entities, FRC, CBN, Nigeria Football Federation and Civil society. The key recommendations include the reduction of the legislative budget, reducing the deficit to no more than 3% of the GDP, readjusting the RCP to about $57, a moratorium on withdrawals from the ECA, establishment of a lifeline electricity tariff, the Power Consumer Assistance Fund, long term window for funding the electricity sector, timely and regular preparation and dissemination of budget implementation reports, making the lending rate to be single digit, enforcement of limits on sub-national borrowing. Others include the commencement of the preparation of the MTEF, 2011 budget bill to be submitted by the end of August to the legislature and the immediate sack of the overvalued national football coach Lars Lagerback, etc.

A. ISSUES

1. EXTENT OF IMPLEMENTATION OF THE 2009 CAPITAL BUDGET REVEALED

The 2009 Budget made a provision of N1,022,255,794,620 (one trillion, twenty two billion, two hundred and fifty five million, seven hundred and ninety four thousand, six hundred and twenty naira) for capital expenditure. Figures from the Office of the Accountant-General of the Federation show that N928.18 billion was cash-backed for draw down by MDAs. As at the end of the year (December 31 2009), the Budget Office of the Federation ("BOF") claimed that the budget was 60.59% implemented and by March 31 2010, the date for the extended financial year, it was 77.13% implemented. What was utilized according to the Budget Implementation Report of 2009 was N562.37billion. Thus, the calculation of the percentage by the BOF was based on the cash backed sum of N928.18 billion and not on the actual budget provision of N1,022 trillion[1]. Essentially, the capital budget implementation rate was under 56%.

2. LATE PASSAGE OF THE 2010 BUDGET

In accordance with the established tradition over the years, the 2010 Budget which was submitted to the National Assembly in November 2009 was not passed until late March 2010 and assented to be law by the President on Thursday April 22 2010. Late passage of the budget leads to delayed and eventual poor implementation.

3. ANNUAL CASH PLAN

By section 25 of the FRA, the Accountant-General of the Federation is mandated to draw up the Annual Cash Plan which is to be prepared in advance of the financial year setting out projected monthly cash flows. It is to be revised periodically to reflect actual cash flows. However, this is a duty the Accountant-General has failed, refused and neglected to perform since the inception of the FRA. This failure continued within the first six months of year. The Annual Cash Plan is required for proper management and disbursement of available resources. It is designed to facilitate budget implementation because an Annual Cash Plan will evolve from a cash management policy and will inform actual release and disbursements to MDAs. The Annual Cash Plan will be informed by requests and demands of MDAs and the cash flow projections from the revenue agencies and this will be consolidated to form the federal Annual Cash Plan.

4. BUDGET DISBURSEMENT SCHEDULE

Section 26 of the FRA enjoins the Minister of Finance to prepare a Budget Disbursement Schedule. For a budget to meet its targets, there should be a systematic financing programme that takes into account the special and strategic needs of the spending agencies. Haphazard release of funds or denial of funding when a spending agency needs it most had been the bane of budget implementation. The Annual Cash Plan and the Disbursement Schedule will facilitate budget implementation by spending agencies by introducing the element of certainty and predictability in the disbursement of appropriated funds. However, the Minister has failed, refused and neglected to prepare the Budget Disbursement Schedule in accordance with the law.

[1] Budget Implementation Report 2009 published by the Budget Office of the Federation.

5. BUDGET MONITORING AND REPORTING

The FRA in section 30 places an obligation on the Minister of Finance through the Budget Office of the Federation to monitor and evaluate the implementation of the annual budget, assess the attainment of fiscal targets, and to report thereon on a quarterly basis to the Fiscal Responsibility Commission ("FRC") and the Joint Finance Committee of the National Assembly. The Minister is also obliged to cause the report to be published in the mass and electronic media and on the website of the Ministry of Finance within 30 days after the end of each quarter. This provision is commendable because it facilitates budgetary transparency and access to information for the legislature, FRC and civil society including the media. It has helped to nib away at the Official Secrets Act mentality and practice in government by granting a right of access to fiscal information.

Since the commencement of the Act on July 30 2007, only three reports have been prepared and published. So far, on the website of the Ministry of Finance, only the quarterly budget implementation reports of the first, second and third quarters of 2009 have been posted. The full 2009 Implementation Report is not yet available to the public through the website or the mass and electronic media. There has been no report for the first quarter of 2010 and the second quarter has just ended.

6. PREPARATION OF MEDIUM TERM EXPENDITURE FRAMEWORK (MTEF)

The MTEF contains the macroeconomic framework setting out the macroeconomic projections for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macroeconomic projections for the preceding three financial years. It also contains the fiscal strategy paper, expenditure and revenue framework including the reference commodity price, aggregate expenditure ceiling, and the strategic economic, social and developmental priorities of the Federal Government for the next three financial years and an explanation of how these objectives relate to the economic objectives of governance found in chapter 2 of the Constitution.

The Minister is obliged to prepare the MTEF and send it for consideration and endorsement of the Executive Council of the Federation before the end of the second quarter in each financial year and thereafter, it will be sent to the legislature for its approval by resolution. However, the second quarter has ended but the Minister is yet to commence the preparation of the MTEF. The implication of the foregoing is that we are laying the firm foundation for the late presentation of the budget by the President to the National Assembly and its late passage by the legislature, may be, in the usual practice, by the end of the first quarter of 2011. This is based on the fact that by law, nothing will be found in the annual budget proposal if it is not already in the MTEF as the MTEF is the basis of the annual appropriation. However, previous experience shows that even after preparing the MTEF, the federal government to a great extent ignores its provisions while preparing the annual budget. Although it is a bit late, the time for the preparation of the MTEF is now.

7. THE 2010 SUPPLEMENTARY BUDGET

According to President Goodluck Jonathan in his letter to the National Assembly on the Supplementary Budget, he stated[2]:

[2] Letter from the President to the Senate and House of Representatives dated May 29 2010.

Finally, as I had earlier indicated when I assented to the 2010 Appropriation Act, there were certain critical items such as statutory transfers, debt service, the service-wide vote and other critical expenditure heads that were either inadvertently omitted or under-provisioned for. It has also become necessary to cater for certain unanticipated items of expenditure such as Negotiated Civil Service Wage Increases, Power Holding Company of Nigeria Arrears of Monetisation and 50th Anniversary of Nigeria's independence. It is proposed to provide for all these expenditure through a supplementary budget.

Reading through this idea of unanticipated items of expenditure such as the 50th Independence Day Anniversary of Nigeria questions the concept of the word "unanticipated". That Nigeria will be 50 by October 1 2010 was common knowledge as at the day the Union Jack was lowered in 1960. Wage increases are expected to be foreseen, planned and crafted into the MTEF in accordance with sections 35 and 36 of the FRA. The PHCN monetization benefits have been due for years and cannot be said to be unanticipated unless the government did not want to pay the arrears and later changed its mind. Thus, what is evident from this request is poor planning and coordination by the Ministry of Finance and other MDAs in the crafting of the MTEF 2010-2012. The poser is; are these so called unanticipated expenses consistent with the extant MTEF? The answer is obviously in the negative. A well crafted MTEF would admit of no supplementary budgets except on the condition of an emergency or security threat or grossly changed economic fundamentals.

Further, budgeting the sum of N10 billion for the 50th anniversary of Nigeria's independence is nothing but sheer profligacy. This is the story of a man who goes rat chasing while his house is on fire. What are we celebrating - darkness, falling standards of education, increased maternal and child mortality, armed robbery, kidnapping and insecurity of lives and property, poor infrastructure?

A Supplementary Budget of N639.8 billion based mainly on unanticipated expenses and payment of wage increase negotiations is definitely not one of the best practices in budgeting.

8. REVIEW OF THE 2010 BUDGET

The 2010 Appropriation Bill passed by the National Assembly and assented to by the President is based on the following macroeconomic assumptions: oil production capacity of about 2.350mbpd; oil price benchmark of US$67/barrel; Joint Venture Cash (JVC) call of US$7billion; average exchange rate of N150 to the US dollar; target inflation rate of 11.2% and target real GDP growth rate of 5.47%. The projected expenditure is N4.608 trillion containing a deficit of N1.521 trillion. The Net Retained Revenue is N3.086 trillion; Sales of Government Property is expected to bring in N9.56 billion, Privatization Proceeds N107.208 billion, FGN's Share of Excess Crude Account ("ECA") N309.13 billion, Signature Bonus 2010 Bid Round N132.312 billion, International Bonds N75 billion and Domestic Borrowing N897.3 billion. The N4.608 trillion is to be disbursed as follows: Statutory Transfers (180.279 billion); MDAs Recurrent Non-Debt Expenditure (2.077trillion); Capital Expenditure (1.853 trillion); Debt Service (N497 billion); respectively.

The President seeks the approval of the National Assembly to review the 2010 Appropriation Act. He cited dwindling revenue accruals for the implementation of the budget and sought a downward review of the aggregate expenditure and the RCP. The absence of a First quarter Budget Implementation Report from the Budget Office of the Federation has made it difficult for stakeholders to determine the actual level of the dwindling expected revenue. First, the price of oil has not been lower than the RCP since the beginning of the year. However, the ambitious projection of 2.350 mbpd will definitely have been missed. CSJ had stated as follows in its reaction to RCP and the projected volume of daily production of crude oil in the 2010 Budget:

> *The Medium Term Expenditure Framework (MTEF) projects the benchmark price of crude oil in 2010 at $50 per barrel at a ten year moving average. However, the Appropriation Bill projects a benchmark price of $57 per barrel while the National Assembly has passed the Bill at $67 per barrel. There is an inconsistency between the MTEF, the budget proposal and the final approval by the National Assembly. Whatever happened between the period of the MTEF formulation, budget documentation and approval is unexplained by the National Assembly. The budget is supposed to be framed based on the predetermined Reference Commodity Price (RCP) and Tax Revenue[3]. According to the MTEF, $57.20 per barrel is the estimated market price of crude oil in 2010. Using $67 as the budget projection creates some inconsistency and may lead to little or no accruals to the ECA. The danger is that in the event the price of oil crashes, we are back to the boom burst cycle which allows us to spend in boom times and leaves us with little or nothing in lean times. This is exactly what the Fiscal Responsibility Act (FRA) was enacted to stop as the MTEF guides and provides the anchor for the budget.*
>
> *The ECA has played a great role in providing stability for the budgets of the three tiers of government. Funds in the ECA were estimated at $20 billion at the exit of the Obasanjo administration. It has been drawn down to under $4 billion as at February 2010. Considering the fast rate of diminishing the ECA at about $4.66 billion per year, the three tiers of government may have nothing to fall back upon in the event of price volatility and oil shock leading to diminished prices. The RCP used by the National assembly is therefore not sustainable for the budget and it clearly violates the FRA.*
>
> *The pre-determined RCP is tied to the number of barrels to be produced per day. Thus, for the estimation of aggregate revenues, the number of barrels has to be realistic and attainable. The projection of oil production capacity at 2.350 million barrels per day is evidently unrealistic considering the prevailing social and political climate in the Niger Delta. Previous forecasts in 2007, 2008 and 2009 were not realized mainly due to the civil unrests, production shut down and activities of militants in the Niger Delta. Even though militants in the Niger Delta under the Amnesty Programme of the Federal Government have earlier laid down their arms, the slow implementation of development programmes in the Delta is ensuring that many of them are taking back their arms. It would have made eminent sense for the National Assembly to base the budget on a realizable or conservative estimate considering that any excess would be saved and can be used in future.*

We have no reasons to change our earlier position. This view that the RCP and projected barrels per day were unrealistic was also shared by the Governor of the Central Bank of Nigeria. However, the unfortunate development is the pseudo experts and quacks that have no in-depth knowledge of economic realities and their governing laws have hijacked the corridors of power and even the media when they were celebrating a budget that was

[3] Section 11 (3) (c) of the Fiscal Responsibility Act (FRA).

manifestly bound to run into stormy waters. It is our submission that the RCP should be reduced to about $57 and the recurrent budget be reduced so as to leave more funds for capital expenditure.

With an inbuilt deficit of N1.521 trillion in the 2010 Budget, the dwindling revenue would mean an increase in deficit financing if the expenditure figures are retained as they are. It is therefore imperative that overall expenditure is scaled down and the deficit to be grossly reduced. In this regard, the following suggestions in Table 1 as to areas of wasteful expenditure which could be scaled down are imperative. The suggestion is on the budget of the National Assembly which is supposed to be the elected representatives of the people, acting in the national interest. If they can scale down their own budget, then it will be easy to ask other MDAs to make sacrifices and cut down their bloated budget.

Cutting Down the Fat in the National Assembly Budget - Table 1

Code	**Expenditure Items for National Assembly Office**	**Amount in Naira**
021060002300601	Security vote (including operations)	345,693,750[4]
021060010150000	Purchase of generating sets	500,000,000
021060002300601	Security services	400,000,000[5]
021000002501101	Contingencies	518,500,845
021060010020000	Purchase of office equipment	500,000,000
	Expenditure Items for Senate	
021005002300605	Security vote (including operations)	1,259,000,000
021005002501099	Other Miscellaneous expenses	18,559,733,617
021005010012001	Purchase of vehicles for presiding and principal officers, departmental utility and staff buses	500,000,000
021005010012106	Purchase of books and shelves for NASS Library	300,000,000[6]
021005010012203	Purchase of guest houses for presiding officers	750,000,000[7]
021005010012399	Renovation and furnishing of Senate President and his deputy's residences	250,000,000[8]
021005010012299	Establishment of a TV/radio station	500,000,000[9]
021005010012110	Purchase of office equipment	855,000,000
021005010012114	Purchase of security equipment	800,000,000[10]

[4] Who is going to manage this security vote considering that the Senate and the House of Representatives have their separate votes?
[5] As distinct from the security vote aforementioned.
[6] The House of Representatives and the National Assembly office also have huge votes for the purchase of library books. This also appeared in the approved budgets of both Houses last year.
[7] Should guest houses for presiding officers of the Senate take precedence over people's right to a livelihood?
[8] They are leaving office in the next one year and their successor will also likely start the furnishing process afresh.
[9] For what purpose when Government is considering the privatization of existing government owned stations?
[10] This is different from the security vote.

021005002150300	Materials and supplies	3,680,200,000
021005002350700	Consulting and professional services	1,740,000,000
	Expenditure Items for House of Representatives	
021010002050110	Travels and transport	22,805,995,000
021010002150300	Materials and supplies	3,984,673,000
021010002501099	Other miscellaneous expenses	15,013,004,846
021010010012302	Members image laundering	265,000,000

It is our position that the budget of the National assembly can be reduced by about 50% and the same reduction method could be applied to other deserving MDAs.

9. ALLOCATIONS IN THE 2010 BUDGET TO AN UNEXISTING MARITIME SECURITY AGENCY

It was widely reported that the executive requested and the legislature approved the sum of N5.8billion for an agency unknown to the law in the name of the Maritime Security Agency. The Bill for the establishment of the agency has been rejected twice by the Senate because its provisions are in conflict with the Nigeria Maritime Administration and Safety Agency (NIMASA). If the budgeting process had been thorough and based on the MTEF, this allocation would not have escaped the attention of the executive particularly the sectoral ministry promoting the establishment of the agency and the legislative committee(s) with oversight over the sector. It is also unfortunate that this provision also escaped the prying eyes of consultants hired by the National Assembly for support to the appropriation process.

10. PROPOSED INCREASE IN VALUE ADDED TAX

A proposal to increase Value Added Tax (VAT) from 5% to 10%, a 100% increase was revived during the half year. This proposal is not new as it is an idea that the Obasanjo administration had flirted with in 2007 but was jettisoned by the Yar'Adua administration. The idea of the increase is to generate more funds to the Treasury. However, the proposal ignored the underlying currents and challenges of equity in the distribution of VAT resources and the impact of the increase in VAT to the general price and inflationary levels in the country. The proposal also ignored the critical issues of transparency and accountability for the use of existing resources before the case for new and additional resources would be made. Any such proposal apart from getting the inputs of the executive and legislature should be subjected to popular discourse and inputs from the generality of the population who bear the burden and hardship since it is clear that the leadership of the legislature and the executive do not feel the impact of the hardship in the land.

11. FISCAL ISSUES IN ELECTRIC POWER SECTOR REFORM

A. Indebtedness of Customers to PHCN: Reports emerging during the reporting period showed that the Power Holding Company of Nigeria was being owed over N70billion by consumers. This debt profile of customers has been hampering the operations of the unbundled companies considering that no service provider would offer his services to consumers that are unwilling to pay for the services. However, PHCN has no plans and ideas on how to recover this debt.

B. Pre-Paid Metres: Unnecessary Indebtedness to PHCN brings to the fore the issue of pre-paid metres which should have facilitated the collection of tariffs before customers enjoy the services. From the reform agenda rolled out under the National Economic Empowerment and Development Strategy (NEEDS), prepaid metres should have been available everywhere PHCN renders its services. PHCN and its unbundled companies have treated the issue of providing these metres with levity and there are instances where customers are ready to pay for the metres but they are not available. Even in some areas, PHCN is yet to make available the old metres and customers are made to pay estimates of what PHCN officials consider to be their bill.

C. Increase In Tariff: Plans are underway by government to increase the electricity tariff from N6 per kilowatt to N8.50k per kilowatt. According to the Nigeria Electricity Regulatory Commission, the Multi Year Tariff Order (MYTO) sanctions this increase. The MYTO has an inbuilt methodology for a cost pass through scheme that ensures that (any) existing subsidies are removed, consumers eventually pay the market price of electricity which will in turn lead to full cost recovery and profits for operators in generation, transmission and distribution, etc. The idea is to remove barriers that impede private sector investment in the power sector and to reflect actual market prices for electricity consumed. The argument is that prices of inputs are increasing, for instance, a new price regime has been approved for gas supplied to power stations. Under the new regime, the price of gas will increase progressively from its current 20 cents per million British thermal units (mbtu) to $1/mbtu by the end of 2010 and to $2/mbtu by the end of 2013.

Government had made available the sum of N177billion for subsidies under the MYTO to ensure an orderly transition from subsidy to market determined prices of electricity. Out of this provision, a total of N43.9 billion has been released for onward disbursement to beneficiaries. Labour and civil society have come out strongly against this upward review arguing that increase in price must be preceded by improvements in service delivery considering that it makes no sense to increase the price of a service that is not available.

Beyond the disputations, CSJ believes in accordance with the established tradition in the pricing of hitherto government provided services that electricity tariffs will eventually go up. What is required is the establishment of a lifeline tariff, a subsidised tariff for the poor, through a threshold agreed to by stakeholders where the first 1-100 kilowatts of electricity (or any agreed threshold) consumed on a monthly basis by persons earning below a fixed sum (Nxyz000 per annum) will attract lower tariffs and after this threshold, the normal commercial rate applies. The subsidy will come from a fund appropriated by the legislature or raised through government regulations.

D. Establishment of the Power Consumer Assistance Fund: The Electric Power Sector Reform Act 2007 envisages in section 83, the establishment of the Power Consumer Assistance Fund with the objective of sbsidising underprivileged power consumers to be specified by the Minister of Power and Steel. Five years after the Act, there has been no attempt at establishing the Fund. This is a Fund that deserves the urgent attention of the government and NERC-the regulatory agency.

E. Source of Funding Electricity Investments: Five years after the enactment of the Electric Power Sector Reform Act, the government is yet to devise a financing mechanism and framework for the funding of the electricity industry. The source and terms of funding of electricity projects will eventually reflect as tariffs and user fees to be paid by electricity consumers. Nigeria Electricity Regulatory Commission in collaboration with the Ministry of Finance, Debt Management Office and the Central Bank of Nigeria should establish prudential guidelines for public and private borrowing in the power sector to avoid financial mismatch between projects and loans. Sectoral funding should come from long term concessional sources, with low interest rates and reasonable long period of amortization. This should lead to the establishment of a window for long term funding of the electricity industry beyond budgetary appropriations and loans from the banking industry. Proceeds of privatization in the sector (after settling liabilities) should form the core of this Fund. The experience of the National Housing Fund, Education Trust Fund, National Health Insurance Scheme and Pension Reforms should inform the design of this funding mechanism. Central Bank of Nigeria's N500 billion intervention fund which will also be available to the electricity industry is a welcome development but it is a one off intervention and too small to be compared to required investment in the sector. It is generally not sustainable in the long run.

12. PROPOSALS FOR INCREASED ALOWANCES TO LEGISLATORS

Each Senator is by law (as stipulated by the Revenue Mobilisation Allocation and Fiscal Commission) to receive a gross annual salary of N22.6m. Allowances such as accommodation (200% of basic annual salary), vehicle maintenance (75%), entertainment (30%), utility (30%), personal assistant (25%), wardrobe (25%) domestic staff (75%), recess (10%), newspapers and periodicals (15%) and constituency allowance (250%). Occasional allowances include furniture (300%) payable once during the tenure, vehicle loan (400%) and repayable in six years and severance gratuity of 300% of basic salary. This same salaries and benefits are replicated for the members of the House of Representatives although at a bit lower scale.

Another sum of N45m is shared per quarter as the quarterly disbursement while in the House of Representatives, it is reported to be the sum of N27m per quarter. However, there are reports that the Distinguished Senators and the Honourable Members want more money because this is an election year when they need more money to run primaries. The Senators are reported to be asking for N90m per member per quarter while the Honourables are looking at about N70m per member every quarter. The legislators are reported to have stated that there are "enough paddings" in the budget to effect this[11]. This demands and even the current quarterly disbursements bring to the fore the dis-functional budgeting system and process where miscellaneous, other miscellaneous and further miscellaneous dominate legislative and MDA budgets. The miscellaneous expenses are only known to those requesting for it as it has no clear cut breakdown. As such, it provides an avenue for corruption, a slush fund to be used to the detriment of the common will.

13. THE EXCESS CRUDE ACCOUNT (ECA)

The FRA in section 35 created the ECA for the purpose of saving the proceeds or income to the Federation Account over and above the reference commodity price used in the Federal Budget. It is a form of stabilization fund that will help cushion the boom burst cyclical nature of oil and gas income. The money is saved in the Central Bank of Nigeria with clear documentation and delineations of what has accrued to each state, local government and the federal government. Access to the ECA by any tier of government is premised on the reference commodity price falling below the predetermined level for a period of three

[11] Daily Independent, June 14 at page 2.

consecutive months and this access is to augment the budget to bring the revenue to the level contained in the budget estimates. Essentially, the ECA upon agreement between the Federal Government and the States will be appropriated for capital projects and programmes.

The continued draw down from ECA in the first half of 2010 have not been premised on the statutory provisions. The price of crude oil has not fallen below the pre-determined reference commodity price and neither has the price been below the RCP for three consecutive months. With the exception of the sums withdrawn last year for power projects, the sums withdrawn from the ECA were not targeted at any capital projects rather they were based on political exigency, intrigues and blackmail. For instance, governors did a u-turn after $2 billion was released from the ECA, to support the declaration of President Jonathan as Acting President. From a high point of over $20 billion left by the Obasanjo regime, the ECA now holds about $3 billion. Governors have been mounting unnecessary pressure for the complete liquidation of the ECA against the spirit of fiscal prudence. The argument that the Federation Accounts established under section 162 of the Constitution is a distributable zero sum account and that ECA is illegal/unconstitutional holds no water until it so stated by the courts. CSJ proposes a complete freeze or moratorium on withdrawals from the ECA for a period of two years.

14. PROPOSALS FOR A SOVEREIGN WEALTH FUND

The Minister of Finance Olusegun Aganga announced the need for Nigeria to establish a Sovereign Wealth Fund (SWF) within the period under review. The idea of a SWF has been established in the practice of many countries including China, Norway, Kuwait, United Arab Emirates, Russia, Australia, Algeria, South Korea, Quatar, France, Singapore, etc. The Minister stated that this will replace the Excess Crude account which he claimed has not served its defined purpose and had failed the nation. It will be recalled that ECA had been depleted from its $20 billion high in 2007 to about $3 billion in June 2010. At the National Economic Council, the governors were asked to embark on consultations and come up with ideas on the way forward for the SWF while a committee had been inaugurated to also work out the details.

SWFs are government investment funds funded by foreign currency reserves but managed separately from official currency reserves. Governments invest this money for profit and most times, they are invested in foreign assets. Some SWFs are funded from commodity income such as oil and other natural resources, others come from pension funds, etc.

However, the design of any investment mechanism to replace the ECA must be based on the diagnostics of the ECA, what succeeded and what went wrong and the reasons informing the successes and failures. The Yar'Adua and Jonathan administrations had feasted on the money left in the ECA by the Obasanjo administration as if there is no tomorrow. In fact, there is nothing to show for such draw-downs at the federal, state and local levels. Most of the withdrawals were not made towards capital projects and human development, neither were they made when the price of oil fell below the RCP for a three months consecutive period as stipulated by law.

State Governors had claimed that the Federal Government had no right to withhold their shares from the Federation Account in the name of savings in the ECA or any other fund. That, what is a established in section 162 of the 1999 Constitution is a distributable pool account that is virtually a zero sum account and if there is any need for savings, it should be done at the respective tiers of government after moneys have been shared according to the Revenue Allocation Formula. If that argument had served as a basis for constant withdrawals from the ECA and the said section 162 of the Constitution has not been amended, the same argument and fate will await and befall the SWF.

Essentially, a SWF for Nigeria should at least be 75% inward looking in terms of its investment trajectory because we are still looking for funds for infrastructure development and investments in other critical sectors of the economy. This should be the case for an initial period of at least ten years and subject to legislative review after this initial period. It should also seek ways to insulate the SWF from corruption or specifically tackle the octopus of corruption which has defied the lip service paid to it by various governments in Nigeria. The provisions establishing the SWF should be embedded in the Constitution and requiring a super majority for its amendment so that it will not be subject to the vagaries of political exigency. A robust debate involving all stakeholders should precede the establishment of the SWF. The stakeholders should include the academia, various segments of organized private sector, labour, community based groups, women's groups and traditional non governmental organizations. In government, the consultation should include agencies such the Fiscal Responsibility Commission, Revenue Mobilisation Allocation and Fiscal Commission, Debt Management Office and the legislature. The debate should not just be limited to politicians and the political class who have little or no understanding of the workings of the economy and clearly do not have the interest of the people at heart.

15. ACCUMMULATION OF DEBTS BY SUB-NATIONAL GOVERNMENTS

States such as Abia, Ogun and Osun states re-invigorated their bids to borrow various sums of money from different sources. Abia state is seeking for a \$200m credit from the World Bank and the projects listed for funding include housing schemes, construction nd rehabilitation of roads, tourism development, rehabilitation of water schemes and educational facilities. Although borrowing from the World Bank is concessional borrowing in accordance with state obligations under the Fiscal Responsibility Act, Abia State had complained in the past that it was heavily indebted and that its irrevocable standing payment orders with the Accountant-General of the Federation and the Central Bank of Nigeria leaves it with little or nothing after deductions from the federal allocation. Compounding the matter by contracting news loans will not help the state but will rather impoverish its people.

In the case of Ogun State, its attempt to borrow from the capital market last year was stalled by the State House of Assembly who issued a warning to the whole world in paid advertisements that they have not and will not authorize any borrowing and any one who lends money to the state does so at his or her own risk. However, the State Governor now wants to raise bonds in the sum of N100billion, a sum higher than his earlier proposal of N60billion, last year. Although the interest rates attached to the bonds will not qualify it as concessional borrowing, legislative houses have the right to authorise raising bonds.

For Osun State, it is not raising bonds or borrowing from concessional sources. Rather, it is raising direct loans from banks at rates which must be in double digits. The money to be borrowed establishes a line of credit and is to be used for a number of purposes including hotels, a liaison office in Abuja, roads and education projects. The loan is to be charged to state income expected from the Federation Account, ECA, VAT, etc. Borrowing at double digit interest rate from a commercial bank is not within the contemplation of the rules in the Fiscal Responsibility Act and is in violation of the law. It is also not clearly established what the debt service ratio of Osun State is considering that the debt service ratio of a state including the bank loan contemplated should not exceed 40% of its monthly federation account allocation of the preceding 12 months.

Considering that State Governors have about one year to the end of their tenure, this rush to borrow funds to start projects which have not been done in the past three years of running the state is not right and should attract the sanction of the Fiscal Responsibility Commission and other authorities.

16. DEPLETING FOREIGN RESERVES

Nigeria's foreign reserves as at the end of May 2010 fell to $39.80 billion from $40.30 billion at the end of April. The year 2009 had ended with the reserves at $42.40 billion. The CBN estimates that this reserve will finance 17 months of import bills. The CBN was also reported to be considering reducing its Euro holdings in view of the declining value of the currency premised on the Euro zone debt crisis. The CBN holds 15% of its foreign currency reserves in Euros and about 80% in dollars. The external reserves had peaked at $64 billion in August 2008 during the oil boom period when the price of crude oil reached $147.

17. FISCAL ISSUES IN FOOTBALL ADMINISTRATION

During the reporting period, the Nigerian football authorities sacked the national coach Amodu Shuaibu and replaced him with Lars Lagerback who is of Swedish nationality. He was sacked for poor performance after qualifying Nigeria for the World Cup. The authorities claimed they wanted to hire a world class coach. However, the surprising thing was that Lars Lagerback failed to qualify Sweden for the same world cup. Yet, he was hired to replace a man who had qualified his country. While Amodu was on a salary of N2million a month, Laggerback was offered a monthly salary of $300,000 which translates to N45 million a month at the rate of N150 to 1USD. He was given a mandate to take Nigeria to the semi finals of the World cup and he failed woefully and miserably. Nigeria was unable to win one match- two defeats and a draw and Nigeria crashed out at the first round.

Upon any assessment of value for money, expecting a man who earned N2m monthly to do the same job at the same level of performance as a man who earns N45m was extremely cruel and unrealistic. Amodu was supposed to have delivered, by value for money assessment, less than 5% of Lagerback's output but he performed much better. Hiring Lars Lagerback was an incredible waste of public funds by the Presidential Task Force and the football authorities.

18. BANKING AND CREDIT CONTRADICTIONS

Banks in Nigeria had crashed their call and fixed time deposit rates from double digit to between 3% - 4% per annum within the reporting period. Most of the deposits were booked between 10% -14% and banks claimed to be suffering significant losses and had to cut their losses by reviewing the rates. The banks who are generally unwilling to lend are reported to have more than N600 billion in their vaults and there is excess liquidity in the system. Yet, there is a credit squeeze! However, the lending they do attracts interest rates of 18% per annum and when all the other charges are added goes in the neighbourhood of 25-30% per annum. This is a contradiction in terms considering the close to 20 points margin between deposit and lending rates. During the Soludo Central Bank era, there was a limitation in terms of a spread to not more than 4points between lending and deposit rates. If Nigeria is serious about attaining single digit lending, this is the right time for the CBN to take action and provide the right policies and regulations. Talking about market forces as regulating rates in this kind of situation is the encouragement of usury and nothing more. The ending rate can be brought down if the political will is present.

19. CIVIL SOCIETY SEAT ON FISCAL RESPONSIBILITY COMMISSION (FRC) IS STILL VACANT

Over two years after the constitution of the FRC, there is no representative for civil society organizations in the Commission contrary to the provisions of section 5 (1) (b) (ii) of the Act. The law had sought the representation of diverse interests including civil society and organised labour in the Commission but the President thinks otherwise and has therefore failed, refused and neglected to appoint a civil society representative to the Commission. Even though the Act makes the civil society representative a part time member of the Commission, the refusal to fill that seat is in bad faith.

B. RECOMMENDATIONS

(i) The President and the National Economic Council

- Place a moratorium of draw-downs from the Excess Crude Account for the remainder of the life of the administration;
- Consult widely in designing a Sovereign Wealth Fund and such consultations should include the civil society, organized labour and the private sector;
- SWF to be designed to reflect the peculiar developmental needs of Nigeria and should to a great extent be inward looking.

(ii) The Finance Minister

- Immediate preparation of the 2010 Budget Disbursement Schedule;
- Commencement of the 2011-2013 MTEF process;
- Ensure that the 2011 Appropriation Bill is ready for the National Assembly by the end of August 2010;
- Ensure that the Budget Office of the Federation regularly and timeously prepares and disseminates the Quarterly Budget Implementation Reports;
- Ensure that civil society and other stakeholders are represented in the MTEF preparation process;
- Ensure that the 2011-2013 MTEF is comprehensive to avoid unnecessary requests for supplementary budgets;
- In collaboration with the Nigeria Electricity Regulatory Commission, Central Bank of Nigeria, Debt Management Office etc, establish prudential guidelines for public and private borrowing in the electricity sector to avoid financial mismatch between projects and loans.

(iii) Accountant-General of the Federation

- Immediate preparation of the Annul Cash Plan

(iv) Legislature

- Cancellation of the allocation in the 2010 budget to the Maritime Security Agency
- Maintain VAT at the current rate of 5%;
- Resist the temptation to illegally increase the income, entitlements and allowances or perks of office by whatever name called, of its members;
- Reduce its 2010 appropriation through the Budget Amendment Bill including details as shown in Table 1 and generally reduce the appropriation to other deserving sectors;
- Reduce the quantum of deficit in the 2010 budget to not more than 3% of the GDP.

(v) PHCN and its Unbundled Entities

- Draw up an action plan for the recovery of debt owed by consumers;
- Implement full installation of prepaid metres in all existing and new connections and this could be achieved by collaboration and arrangements with the producers of the metres, financial institutions, consumers or funding through appropriation.

(vi) Minister of Power and Nigeria Electricity Regulatory Commission

- Ensure the establishment of the Power Consumer Assistance Fund to take care of poor consumers;
- Establish a life line tariff for poor consumers for the first 100 kilowatts of electricity per month;
- Work on a legislation in collaboration with stakeholders for the establishment of a window for long term funding of the electricity sector.

(vii) Central Bank of Nigeria

- To take steps to ensure single digit lending rate by banks and financial institutions through restricting the spread between deposit and lending rates to not more than 4-5 points.

(viii) Fiscal Responsibility Commission

- Embark on studies and take proactive steps that will prevent sub-national governments from reckless borrowing in contravention of the FRA;
- Full implementation of section 43 (3) to (8) on the FRA on the limits to the Consolidated debt of Federal, State and Local Governments.

(ix) Nigeria Football Federation

- The immediate sack of Lars Lagerback and his replacement by a knowledgeable Nigerian coach who should be properly remunerated and given deliverables based on a value for money employment contract. He should also be given adequate opportunity to prove his worth.

(x) Civil Society

- Advocacy for representation on the FRC;
- Take its watchdog role more seriously through proactive actions - action research, informed advocacy, media interventions, etc.