Press Statement on the current Energy Sector Levies Act 2015 (Act 899) presented by Dr. Mohammed Amin Adam, Executive Director of the Africa Centre for Energy Policy (ACEP) on the 7th January 2016

Introduction

The Government through a certificate of urgency passed the new Energy Sector Levies Act (Act 899) in December 2015, which has now taken effect since 4th January 2016. The Act provides for the harmonization of major energy sector levies and taxes.

Government officials have explained that the levies are intended to mobilize revenues to service government debts especially in the road sector and power sector. It is common, as we know that most governments around the world raise revenue through petroleum taxes and levies because it is easier to collect; and also the demand for the products is inelastic. In some cases, such levies are intended to encourage energy conservation and climate justice. We estimate that based on volumes of petroleum consumption (Petrol, Diesel and LPG) in 2015, the new levies will generate an incremental revenue of GHS3.2 billion annually. This is the burden the new levies impose on petroleum consumers.

Taxes are important for the development of every nation. To that extent, ACEP appreciates the need for citizens to contribute reasonably to support government programmes. Therefore we do not oppose taxes; but we are of the view that imposition of taxes should be in sync with good governance practices of transparency and accountability rooted in broad consultation with citizens. The Energy Sector Levies lasted only three days in parliament without providing for public consultations in spite of the enormous burden the Act seeks to put on citizens. Such actions are likely to affect public trust in their governments, which could undermine government's ability to implement good policies in future.

It is also important to note that, over-reliance on petroleum taxes and levies could adversely affect the economy in many ways – inflation, growth deceleration, social development challenges, etc.

Commendation

Over the past two years, ACEP has actively campaigned for the abolishing of some levies and margins on petroleum products – TOR Debt Recovery Levy, the Exploration Levy and BOST margin. We are happy that Government has abolished the exploration levy. We have also called for the operationalization of the price stabilization fund to stabilize ex-pump prices and to serve as a buffer against price under-recoveries. This has also been operationalized through the new Energy Sector Levies Act. These are laudable decisions and we wish to commend government for accepting our proposals. It is also worthy of mention that the harmonization of major energy sector levies into one piece of legislation will provide for consistency and predictability in energy levies.

Some Concerns

We have however taken note that the TOR Debt Recovery Levy and the BOST margin have been maintained in spite of our opposition to it. In addition, new levies have been introduced, which in effect, have significantly neutralized the effect of the abolished exploration levy. These include – the Power Generation & Infrastructure Support Levy and the Forex under-recoveries Levy. Also, the rates of some existing levies have been increased to astronomical levels; for example, the road fund levy, which has been increased by 433%. The cross subsidy levy has also been re-packaged into the Price Stabilization and Recovery Levy, but now limits cross subsidies to only premix and residual fuel oil.

1. TOR Debt Recovery Levy

ACEP still maintains that consumers have over paid the TOR debt. At the time the levy was instituted, the total debt stood at GHC450 million. By 2009 the total debt had grown to GHC900 million due to non-application of the revenues to service the debt as well as interest accumulation. Our analysis shows that between 2009 and 2015, the total collection from the levy is in excess of GHC1.9billion. This effectively amortises the debt assuming an interest rate of 10%. We therefore find it difficult to comprehend why consumers should continue to pay this debt. Ostensibly, the TOR Debt Recovery Levy has over the years been misapplied, aided by the weak oversight of parliament. Section 13 of the TOR Debt Recovery Fund Levy Act 2003 (Act 642) states;

"The Minister shall within three months after the end of each financial year, submit a report on the Fund to Parliament."

The Minister of Finance over the years failed to submit this report to Parliament, which reduces the Minister's legal and moral authority to continue collecting the levy.

ACEP would like to demand that the Minister complies with the law by submitting to Parliament a comprehensive report on the levy covering the period 2004 to 2014.

2. Power Generation and Infrastructure Support Levy on Petroleum Products

We recognize that Government has responsibility to invest in the energy sector to improve on generation and distribution of electricity. As the sole equity holder in both VRA and ECG, the responsibility for capitalizing the utilities rest with government. We also know that the balance sheets of the utilities are not good, due to a number of factors, the central factor being the huge indebtedness of the utilities. Government has therefore committed under the Ghana Millennium Challenge Compact II to pay its debts to ECG over a period. Without providing for these payments in the 2016 Budget, we are not surprised that government is now considering repayment of the debt through this new levy.

We have challenges understanding why apart from paying higher electricity tariffs, consumers are also being asked to pay debts accumulated from inefficiencies on the part of VRA and ECG; as well as government negligence of its responsibility to the utilities, through petroleum levies.

In spite of this dilemma, it is our considered opinion that, this levy will provide sustainable resources for addressing the energy sector investment challenges, and thereby helping to end the crises we have in our power sector. The following Table shows that the size of annual revenues to be generated from this levy based on product consumption (petrol, diesel and LPG) in 2015 could exceed GHS1 billion. This means that the power sector debts could be paid off over 3 to 4 years.

Item	**Petrol**	**Diesel**	**LPG**
Power Generation and Infrastructure Support levy (Ghp/Ltr or kg)	0.28	0.28	0.28
Estimated Volumes of product consumption – 2015 (Ltr or kg)	1,515,164,700	1,899,281,160	272,789,172
Revenues from levies (GHS)	424,246,116	531,798,724.8	76,380,968.16
Total Annual Revenue (GHS)			**1,032,425,809**

To ensure that this levy meets its objective and does not become like the unending TOR Debt Recovery Levy, we propose the following.

i. Government should audit and publish the true state of the debts of our utilities;
ii. Government should publish a legislative instrument providing a sunset clause to determine the exact period over which the debts would be paid (A **sunset** provision or **clause** is a measure within a statute, regulation or other law that provides that the law shall cease to have effect after a specific date, unless further legislative action is taken to extend the law);
iii. The levy should thereafter be abolished.

On the use of the levy to support to generation infrastructure, we take a different view. We believe that consumers must not be levied to provide generation infrastructure. The utilities are expected to operate efficiently and competitively to generate profit and recover their investment cost through the capital recovery charge (i.e. capacity charge) consumers of electricity pay as part of electricity tariffs. It therefore amounts to double charges on Ghanaians who pay capacity charge for electricity and at the same time being asked to pay a levy on petroleum products for the same purpose.

There are alternative ways of supporting generation infrastructure development. We recommend that:

a. Government introduces private sector participation into the thermal component of a restructured VRA Holding Company, to ensure its competitiveness against IPPs. This will facilitate accelerated capital recovery to allow for generation investment.
b. Government should further adopt an open and competitive bidding process for inviting IPPs that have capacity to raise the necessary financing for generation projects.
c. Government should revisit its proposal to issue energy bonds for generation infrastructure and paid for through electricity tariffs.

3. Price Stabilization and Recovery Levy

This levy will be used to provide a buffer for under-recoveries in the petroleum sector, to stabilize petroleum prices and to subsidize pre-mix and residual fuel oil. The Levy imposed on petrol is Ghp12/Ltr, diesel is Ghp10/ltr and LPG is Ghp10/kg. These levies translate into an increase in ex-pump price by 5% for petrol, 4% for diesel and 4% for LPG. This will lead to total annual revenues of about GHS400 million based on estimated 2015 consumption of petrol, diesel and LPG (See Table below).

Item	**Petrol**	**Diesel**	**LPG**
Price Stabilization and Recovery Levy	0.12	0.10	0.10
Estimated Volumes of product consumption - 2015	1,515,164,700	1,899,281,160	272,789,172
Revenue from levy	181,819,764	189,928,116	27,278,917.20
Total Annual Revenue			**399,026,797.20**

Given that the average monthly change in crude oil prices during years of higher crude oil prices such as 2012 and 2013 were 0.001% and 0.36% respectively (See http://www.indexmundi.com/commodities/?commodity=crude-oil&months=60), the levy to be collected is much more than required to stabilize prices and subsidize premix and residual fuel oil in this low price era. The rate of the levy is therefore too high and must be re-examined.

4. Double Taxation

ACEP also wants to point out that the application of the Special Petroleum Tax (SPT) to the levies as is required by law constitutes double taxation. We estimate that the double taxation alone would cost the consumer GHC675million annually on Petrol, Diesel and LPG.

Products	**Petrol**	**Diesel**	**LPG**	
Consumption Volumes	1,515,164,700	1,899,281,160	272,789,172	
Levies Before SPT	105.78	103.78	103.78	
Total Revenue	**1,602,741,219.66**	**1,971,073,987.85**	**283,100,602.70**	**3,856,915,810.21**
SPT 17.5%				**674,960,266.79**

We recommend that this trend be revised to bring relief to consumers.

Similarly, the BOST margin should be removed. Contrary to its mandate to store strategic stock, BOST has been renting out its facilities to BDCs and the BDCs pass this rental cost through their margins. BOST must therefore be made to operate on its business margin, which the consumer is already paying.

5. Impact of Levies on Petroleum Product Prices

Since the Act 899 was passed and the various levies applied, there have been different versions of the relative impact of the levies on the ex-pump price of petroleum products. The Minister of Finance told Parliament that the effect of the levies would amount to a 5% increase in the price of petrol, 2.9% in the price of diesel and 1.74% in LPG price. Similarly, many media houses have reported an increase in ex-pump price by between 22% and 28%.

Our analysis on the contrary shows that the effects of the levies on ex-pump prices are much greater and punitive. We estimate that the levies have led to increase in the ex-pump price of petrol per litre by 33%, 40% on diesel per litre and 22% on LPG per kg.

Also, with the current levies, the tax component in proportion to the ex-pump prices of petrol and diesel are 41% and 42% respectively. The IMF shows that average tax share in ex-pump prices of petrol and diesel in developing countries ranges between 22% and 30%. Therefore, the share of taxes in petroleum prices in Ghana is one of the highest in the developing world (See Appendix 1).

Appendix 1: Impact of Levies on Ex-pump Prices

Price Buld Up With Old Levies based on 1ST January, 2016 Prices

Item	PETROL	DIESEL	LPG
Xpi	159.1704	146.1864	185.4223
RECOVERY MARGIN	-	-	12.6796
EX-REFINERY PRICE	159.1704	146.1864	198.1019
EXCISE DUTY	2.7800	1.8000	0.7246
TOR DEBT RECOVERY LEVY	8.0000	8.0000	5.0000
ROAD FUND	7.3231	7.3231	-
ENERGY FUND	0.0500	0.0500	-
EXPLORATION	0.1000	0.1000	-
CROSS-SUBSIDY LEVY	5.0000	-2.6987	-18.4042
PRIMARY DISTRIBUTION MARGIN	4.5000	4.5000	-
BOST MARGIN	3.0000	3.0000	-
FUEL MARKING MARGIN	1.5000	1.5000	-
EX-DEPOT	191.4235	169.7608	185.4223
SPECIAL PETROLEUM TAX	33.4991	29.7081	32.4489
UPPF	9.0000	9.0000	11.0000
MARKETERS MARGIN	16.0000	16.0000	10.595
DEALERS (RETAILERS/OPERATORS) MARGIN	11.1400	11.1400	7.9750
LPG FILLING PLANT/**Premix/MGOLocal Admin Costs**			4.7753
DISTRIBUTION COMPENSATION MARGIN/PROMOTION MARGIN			5.0000
EX-PUMP PRICE	261.0626	235.6090	257.2165

Price Build up with New Levies based on 1st January Prices

Item	PETROL	DIESEL	LPG
Xpi	159.1704	146.1864	185.4223
EX-REFINERY PRICE	159.1704	146.1864	185.4223
EXCISE DUTY	2.7800	1.8000	0.7249
ENERGY DEBT RECOVERY LEVY	41.0000	41.0000	37.0000
ROAD FUND	40.0000	40.0000	-
ENERGY FUND	1.0000	1.0000	-
PRICE STABILIZATION & RECOVERY LEVY	12.0000	10.0000	10.0000
PRIMARY DISTRIBUTION MARGIN	4.5000	4.5000	-
BOST MARGIN	3.0000	3.0000	-
FUEL MARKING MARGIN	1.5000	1.5000	-
EX-DEPOT	264.9504	248.9864	233.1472
SPECIAL PETROLEUM TAX	46.3663	43.5726	40.8008
UPPF	9.0000	9.0000	11.0000
MARKETERS MARGIN	16.0000	16.0000	10.5950
DEALERS (RETAILERS/OPERATORS) MARGIN	11.1400	11.1400	7.9750
LPG FILLING PLANT/**Premix/MGOLocal Admin Costs**	-	-	4.7753
DISTRIBUTION COMPENSATION MARGIN/PROMOTION MARGIN	-	-	5.0000
EX-PUMP PRICE	347.4567	328.6991	313.2933

Summary of the impact of New Levies

ANALYSIS	PETROL	DIESEL	LPG
PRICE BUILD-UP OLD LEVIES (JAN 1, 2016)			
Total Taxes (Ghp/Ltr or kg)	56.7522	44.2825	32.4489
Percentage of total taxes of ex-pump (%)	21.74%	18.79%	12.62%
Total Margins (Ghp/Ltr or kg)	18.00	18.00	16.00
Percentage of margins of ex-pump (%)	6.89%	7.64%	6.22%
Ex-pump prices (Ghp/Ltr or kg)	261.06	235.61	257.22
PRICE BUILD-UP NEW LEVIES (JAN 1, 2016)			
Total Taxes (Ghp/Ltr or kg)	143.15	137.37	88.53
Percentage of total taxes of ex-pump (%)	41.20%	41.79%	28.26%
Total Margins (Ghp/Ltr or kg)	18.00	18.00	16.00
Percentage of margins of ex-pump (%)	5%	5%	5%
Ex-pump prices (Ghp/Ltr or kg)	347.46	328.70	313.29
COMPARATIVE PBU ANALYSIS (NEW VS OLD)			
Increase in levies (Ghp/Ltr or kg)	86.39	93.09	56.08
Estimated Annual Volumes (Ltrs or Kg)	1,515,164,700	1,899,281,160	272,789,172
Incremental tax revenue (GHS3,230,026,693)	1,309,013,020	1,768,042,351	152,971,322
Change in ex-pump price (Ghp/Ltr or kg)	86.39	93.09	56.08
Percentage Change in ex-pump price (%)	33%	40%	22%