EVALUATING THE LEGAL FRAMEWORK FOR SUSTAINABLE CARBON TAX AND BUDGETARY SYSTEM IN NIGERIA*

Abstract

Nigeria as part of its own contributions to the reduction of global warming introduced the carbon tax policy as a radical intervention to step up a desire in corporate firms and industries to rethink their manner of doing business and sources of energy. The Federal Government of Nigeria on 13th February 2023 took cognitive action to harness future gains from reducing gas flaring.[1] The objective of this paper is to examine how far the carbon taxing policy in Nigeria can be effectively activated. The paper adopted doctrinal research method. It was discovered that the nations businesses and industries need commitments in the form of the carbon tax, to effectively reduce their carbon footprints, but the infrastructure and technology to administer the tax is not yet adequate. It was also the finding of the paper that there is need to determine the uses that the fund collected from carbon tax will be put to, and to determine the industrial sectors that most need the implementation of the tax. Such funds can lead to massive infrastructural development in other key sectors such as health and education. It is therefore recommended that the introduction of the carbon tax Policy, as well as modalities for carbon trading should be speedily implemented with policy guidelines, legal framework and assistance by the National Council on Climate Change (NCCC).

Keywords: Carbon Pricing, Decarbonisation, Sustainable Production, Legal Framework and Institutions.

1. Introduction

Carbon tax refers to taxes levied on corporations and manufacturing facilities in order to reduce their carbon footprints. Nigeria is a deeply agricultural and industrial society with traditional modes and processes for every form of production of goods and services. Possible reason for the concerns about global warming in Nigeria relate to open incineration of waste in dumpsites, heavy dependence on coal, forest logging and other fossil fuels which lead to toxic carbon emissions.[2] In Nigeria, Carbon levels have steadily been on the increase. As a result of this, there have been very visible signs in recent times of climate change such as the incidence of floods in areas such as Bayelsa State and Lagos State.

The Nigerian National Council on Climate Change (NCCC) has to date, been responsible for articulating the modalities of implementing a movement towards a relatively carbon free economy in line with the provision of the Climate Change Act of 2004. As such, the NCCC intends to introduce a 'carbon tax and budgetary system for the country.' Plans are in high gear to implement the carbon taxing and budgetary policy. The direction of the policy drive is to determine level of present emissions by industries and to control such levels by levying of tax on excessive levels.[3]To effectively reduce the amount of carbon in circulation through carbon tax, there is a prompting to businesses that their economic policy decisions should inculcate the move to reduce carbon in circulation. It is expected that

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[1]Blackwood Stone, Tax Law Firm 'Taxation: Recent Key Developments in Nigeria' http://blackwoodstone.com accessed 13th November, 2023.

[2] Isaac Anyaogu, 'In Revolt against the Norm, Nigeria Plans a Carbon Tax System' *Business Day*, February 23 2023.

[3]AbdulKareem Mojeed, 'Climate Change: FG to unveil Carbon Tax System for Nigeria' *Premium Times*, February 13, 2023 (This is in line with guidelines which have already been outlined in the Climate Change Act of 2021).

the reduced rates are to be garnered from production lines as well as goods and services whose production lead to large emissions of green house gases. The determination of the payable rates will be based on each tonne of green house gases (GHG) emissions.[4] Other modalities to accomplish the goals of NCCC include the introduction of carbon trading as well as 'emission reduction certificates' to reward lower carbon output through means such as greater use of clean energy. This paper shall examine the Legal Framework for Carbon Tax and Budgetary System in Nigeria. In doing this, the paper shall discuss some veritable sources and outcome of carbon pollution among others.

2. Some Veritable Sources and Outcomes of Carbon pollution

According to Section 37 of the National Environmental Standards and Regulations Enforcement (Establishment) Act, NESREA Act,[5] generally pollution is often man made or aided by human activities which leads to "alteration of chemical, physical, or biological quality of the environment beyond acceptable limits." Humans often inject heavy toxins and pollutants such as heavy metals and other air contaminants into the atmosphere.[6]

The various forms of air pollutants include noxious gases such as sulphur dioxide, carbon monoxide, methane, as well as chloroflocarbons amongst others.[7] Sulphur dioxide may cause acid rain when mixed with other pollutants. Such acid rain rapidly depletes forests and life in water bodies by marine pollution. Carbon monoxide poisoning leads to complication with breathing as a result of displacement of haemoglobin that transports oxygen.[8] Reduction in water supplies or drought is a negative effect of climate change.[9] Intense heat and release of chemicals into the atmosphere can lead to eye and skin defects. Environmental pollution from excessive carbon emissions has adversely affected the health of people in Nigeria especially the vulnerable population such as children expectant mothers and the aged. Rampant health challenges include respiratory ailments, cancer and birth defects.[10] The Nigeria House of Representatives passed The Gas Flaring (Prohibition and Punishment) Bill 2009 into law, which has been assented to by the president. Also the United Nations Convention on the Rights of the Child provides for the right to health.[11] More so, in the Niger Delta region, gas exploitation has resulted in flooding and disruptions of fishing paths as well as salt water incursions. It becomes necessary therefore these environmental issues are reduced to the barest minimum by having a premium carbon tax on such concessions. [12]

Global warming can lead to increase in natural disasters such as cyclones, storms, tsunamis and droughts. In America, the incidence of hurricane disasters increased dramatically such as Hurricane

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[4] By DGB Group, 'Nigeria to introduce carbon tax' www.green.earth These are in line with the long term goals of the country to align with the aspiration s reached by the comity of nations under the United Nations Framework Convention on Climate Change (UNFCCC) 0f 1992.
[5] National Environmental Standards and Regulations Enforcement(Establishment)Act , NESREA Act
[6] S Efe, 'Spatial Distribution of Particulate Air Pollution In Nigerian Cities: Implications for Human Health' (2008) Journal *of Environmental Health Research* 7 (2).
[7] C Moore, 'Poisons in the Air' (995) *International Wildlife* 25, 38-45.
[8] S Efe, Particulate Pollution and Its Health Implications in Warri Metropolis, Delta Ste Nigeria' (2006) *Env. Anal.* 11, 1339 -1351; Article 1 (4) of the United Nations Convention on the Law of the Sea.
[9] *Shell Petroleum Development Company v Otuko* (1990) 6 NWLR pt 159@693.
[10] RO Ogunride and AE Adeniran, 'The Legal Framework for Environmental Protection in Nigeria: An Overview of Regulatory Agencies and their Roles' (2019) 10 (1) *Journal of Sustainable Development Law and Policy* 69-84.
[11] Convention on the Rights of the Child (CRC), Art 23 & 24.
[12] S Aghalino, 'Gas Flaring, Environmental Protection, Pollution and Abatement Measure in Nigeria: 1969-2001' (2009) 11:4 *JSDA* 219 at 220.

Sandy in 2012 and typhoon in 2013. These incidences destroy property and limit or totally disrupt food supply chains.

3. The Role of Carbon Pricing as a Means to Drive Sustainable Development

The removal of fuel subsidy in Nigeria, which is a discount on market price of fossil fuel at less than the prevailing market rate is an action that would in a way reduce the pressure of carbon in the atmosphere, and align with the goals of introduction of carbon tax. The money previously allocated to fuel subsidy can be re-channelled to other pressing sectors of the economy such as healthcare, housing and dimensional energy output. The assumption that more people would practice precision and priority in their day to day movement and activities, and where possible, resort to public or group forms of transportation, thereby reduce heavy reliance on fossil powered cars. Ultimately, in the long run, this will bring down atmospheric carbon.[13]

In relation to this, the Sustainable Development Goals (SDG's) provide a pivotal axis for many nations to rationalise policies aimed at reduction of carbon emissions such as the carbon tax policy. Goal 7 of the SDG goals is hinged on ensuring access to affordable, reliable and sustainable modern energy for all. It gives prominence to energy efficiency systems and international cooperation. The carbon tax policy can be replicated in nations as the SDG goals are universal and uniformity in implementation will not only drive access to energy, but will streamline its usage in such a way that encourages a deviation from traditional energy modes while at the same time bringing in funds to push integrated economic policies. [14]

4. International Legal Framework Preceding the Introduction of the Carbon Tax in Nigeria

The Stockholm Declaration[15] is among the earliest of international instruments to recognize that the environment is prone to degradation due to the economic activities of nations as they forage for natural resources for their survival, and needed to be protected for "present and future generations. To achieve these, twenty six groundbreaking principles were declared. Among the Principles are Precautionary Principle, Principle of Sustainable Development etc. The Precautionary Principle aligns with the introduction of the goals of the carbon tax policy in as much as the policy is designed to make organisations involved in activities that may cause harmful outcomes to the environment to consider alternate manners of doing business to circumvent such results. These principles are outlined in Article 38 (1) (c) of the International Court of Justice (ICJ), which is a principal organ of the United Nations (UN). The Principle of Sustainable Development which was developed at the World Commission on Environment and Development of 1987 (WCED) is also hinged on generational equity, which can be achieved with the implementation of the carbon tax.

The United Nations Framework Convention on Climate Change (UNFCCC) came into being in the year 1992, at the Earth Summit in Rio de Janeiro, Brazil. All the countries which signed this convention recognise the need to preserve the planet in a way that future generations can also meet their own needs. In Article 3, party states are guided as to how to balance economic activities with preserving the environment from degradation.[16] Article 2 of the UNFCCC places the onus on developing states,

[13] OH Ovaga & ME Okechukwu, 'Subsidy in the Downstream Oil Sector and the Fate of the Masses in Nigeria' (2022) *Kuwait Chapter of Arabian Journal of Business & Management Review* 1 (6), 1-20.
[14] Ibid.
[15] UN Conference on the Human Environment, Stockholm, Sweden, June 5 – 16, 1972, Declaration of the United Nations Conference on the Human Environment, U.N. Doc. A/CONF 48/14 [hereinafter Stockholm Declaration].
[16] The United Nations Framework Convention on Climate Change, (UNFCCC) , (adopted May, 1992, effective 21 March 1994) 1771 (UNTS 107), Article 3.

especially those whose economies are particularly dependant on fossil fuel production, use and exportation to enact effective environmental legislation which will lead to effective stabilization of atmospheric green house gases concentration levels, which could include dangerous anthropogenic interference with the climate system.

The Kyoto Protocol to the United Nations Framework Convention on Climate Change ("Kyoto Protocol")[17] established legally binding emission reduction targets on climate change. It established emission limits to be observed by industrialised nations by the year 2012, while at the same time providing flexible alternatives.[18] One of the measures adopted by Nigeria is the introduction of the Carbon Tax. The International Court of Justice (ICJ) has been in the forefront of adjudications of issues between states, especially in transboundary pollution. It is a reoccurring decimal and therefore, the courts periodically give out binding decisions especially in the area of human rights. This is because it is one of the tenets of the court that 'the protection of the environment is a vital part of contemporary human rights doctrine.[19]

The carbon tax is oils the engine of public participation and awareness as more and more corporate bodies are becoming aware of their obligations to the environment. Public participation in environment decision making processes is the focus of the Aarhus Convention which was adopted in 1998. The Aarhus Convention provides information on 'hazardous materials and activities communities.[20]

In addition to UNFCCC[21] and the Kyoto Protocol,[22]The Paris Agreement serves also as an instrument for the reduction of anthropogenic green house gas emissions. The Paris agreement advances key market mechanisms relating to carbon offsetting developed under the Kyoto Protocol aiming to hold global average temperatures increases to well below 2 degrees centigrade and pursue efforts to achieve a limit of 1.5degrees centigrade.[23]

The Paris Agreement recognized that the transportation sector plays a pivotal role in contributing to rising levels of GHG due to the high use of fossil fuels. The International Civil Aviation Authority (ICAO) has heightened their participation and commitment to keeping emission levels low.[24]

The United Nations Climate Conference (COP27) was held in Egyptian town of Sharm El Sheikh. It has become obvious in recent times that the climate crisis spectre was not abating despite several efforts by world leaders to keep temperatures down by reducing green house gas according to year 2030 targets

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[17] The Kyoto Protocol to the United Nations Framework Convention On Climate Change , UN Doc FCCC/CP/1997/7/Add.1 December 10

[18] Damilola Olawuyi and B Mayer, 'Compendium of Legal Best Practices on Climate Change Policy (International Development Law Organization, 2011).

[19] *Gabcikovo – Nagymorous Project (Hungary/Slovakia*)(1998) 37 ILM 62, 206; as per Judge Weeramantry of the ICJ).

[20] Luc Lavysen, 'The Aarhus Convention: Between Environmental Protection and Human Rights' (2021) 652-653; JM Fitchett, 'Climate *Change Threats to Two Low-Lying South African Coastal Towns: Risks and Preparation' (2016) South African Journal*.

[21] The United Nations Framework Convention on Climate Change, (UNFCCC), (adopted May, 1992, effective 21 March 1994) 1771 (UNTS 107), Article 3.

[22] The Kyoto Protocol to the United Nations Framework Convention On Climate Change, UN Doc FCCC/CP/1997/7/Add.1 December 10.

[23] Markus Gehring Freedom – Kai Phillips 'Intersection of the Paris Agreement and Carbon Offsetting' (CIGI Policy Brief No. 88 September, 2016).

[24] Ibid.

emissions to keep global warming to the range of 1.5 degrees Celsius above pre industrial levels.[25] Despite pledges to reduce forest loss and methane levels, phase out coal and fossil car, the compliance from many nations has not been too impressive. Many countries still use some measure of coal and natural gas, despite interventions at COP 26 in Glasgow. The Glasgow conference decision appealed to member nations to "revisit and strengthen" their 2030 target goals to align with the Paris agreement temperature goals.[26]

5. Legal and Institutional Framework Adopted in Nigeria Prior to the Introduction of the Carbon Tax Policy

5.1 Constitution of the Federal Republic of Nigeria 1999 (CFRN) (as amended)[27]

The CFRN 1999 make policies in Chapter 11 for the conservation of the environment, specifically safeguarding the water, air, land, forest and wild life in Nigeria, [28] while section 17(1) and 17(2) touches on the safe utilization of natural resources for the general good. The introduction of the carbon tax is justified in so much as sections 4 (1) (2) and (3) vests powers on the national assembly to oversee aspects of the environment such as gas and mining. Though most of these provisions are non - justiceable by virtue of section 6(6) of the constitution, which excludes them from the jurisdiction of Nigerian courts, they never the less serve as pointers to guide case law. An example of this is the case of *Jonah Gbemre v Shell Petroleum Development Company of Nigeria and Ors.*[29]

5.2 National Environmental Standards and Regulations Enforcement (Establishment Act) (NESREA)

Some Agencies in Nigeria such as the National Environmental Standards and Regulations Enforcement (Establishment Act)[30] have civil and criminal remedies which can be attuned or put in force to check environmental pollution, especially when it is necessary to compensate victims of such pollution.[31] Section 7 (d) of the NESREA Act states that the agency shall enforce compliance with policies, standards legislations and guidelines on water quality and pollution abatement.[32]The carbon tax is designed to work in the same manner with a higher level of deterrence since the tax on excessive carbon emission is much higher compared to previous legislations. NESREA however is imbued with powers also to take deterrent measures against individuals and organisations that threaten the safety of the environment.[33]

5.3 Environmental Impact Assessment Act of 1992

The Environmental Impact Assessment Act of 1992[34] arose out of the pollution and degradation of the human environment in the wake of rapid population explosion and heightened commercial activities related to extraction of natural resources. An Environmental Impact Assessment Report (EIA) is

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[25] UNEP www.unep.org 'COP27 Ends with Announcement of Historic Loss and Damage fund.'

[26]David Waskow, Lorena Gonzalez, Chirag Gajiar, Nathan Cogswell et al, World Resources Institute 'COP 26: Key Outcomes from the UN Climate Talk in Glasgow', www.wri.org/in.

[27] The Constitution of the Federal Republic of Nigeria 1999 (as amended) Laws of the Federation of Nigeria (LFN) 2004.

[28] Ibid, Section 20.

[29] *Jonah Gbemre v Shell Petroleum Development Company of Nigeria and Ors* (2005) Federal High Court Suit No. FHC/B/CS/53/05 (Unreported)

[30] National Environmental Standards and Regulations Enforcement(Establishment)Act , NESREA Act S. 7

[31] Fidelis C. Uwakwe, 'Deconstructing the Barriers to Access to Justice by Crime Victims in the Nigerian Criminal Justice System' (2019) 2 (1) *Chukwuemeka Odumegwu Ojukwu University Journal of Commercial and Property Law* p.6.

[32] NESREA Act, Section 31.

[33] Ibid, Section 31.

[34] The Environmental Impact Assessment Act 1992, Laws of the Federation of Nigeria (LFN) 2004 E 11.

required for activities that have the propensity to negatively aggravate the equilibrium between the human need to pursue economic and other social activities related to the environment by anticipation of expected outcomes and thereby suggesting mitigating procedures to minimise such anticipated damage.[35]The carbon tax operates along the same objective as it is also pre-emptive in nature. Corporate bodies and manufacturing concerns are made aware of the penalties for very high emission level so that they can transition to clean technologies that capture such emissions.[36]

5.4 Nigerian National Council on Climate Change (NCCC)[37]

The Nigerian National Council on Climate Change (NCCC) was specially set up to address and mitigate the impacts of climate change in Nigeria through a robust framework of policies as well as collaborative action with other stakeholders and agencies in the sector. Specifically they develop mechanisms to keep in check carbon emissions, through the setting of emission targets in the corporate sector, and other sectors where the emission of carbon dioxide is rampant such as in mining as well as plastic and waste incineration. The Council came into force on the 28th of September 2022, to complement the targets of the Climate Change Act, and is also empowered to determine the direction of the funds recouped from fines such as carbon tax.

5.3 Petroleum Industry Act (PIA)

The Petroleum Industry Act (PIA) [38] provides for sustainable governance of the oil and gas sector. Prior to the introduction of the carbon tax, there was mostly unregulated gas flaring. Section 104 (1) of the PIA provides fines for marginal field operations engaged in gas flaring, save in the case of emergencies. It is suggested that the carbon tax policy should not replace section 104, but rather, these operators should also be covered under the scope of the carbon tax, especially as the fines collected are for environmental remediation and relief of the host communities where the operations are carried out.

5.4 Climate Change Act 2021

The developmental goals of the nation are adequately captured by the climate change act. The Act also makes the reduction of carbon emissions a priority. The carbon tax is therefore an answer to the ever existing developmental challenges that hinder growth. The domestication of this Act further gives impetus to leveraging local resources and strategies for effective enforcement mechanisms needed to reach the goals of a net zero carbon targets for the years 2050 – 2070.

5.5 Electricity Act

The Electricity Act 2023 (Amended 2024), recommends amongst others, the coming on board of more renewable energy generation to a satisfactory level. This can only be ensured if renewable energy outputs are harmonised into the national grid by the introduction of effective tracking of energy utilized by consumers through meters and training of manpower to achieve technology transfer and innovation, backed by a proper legal framework that ensures speedy repatriation of funds among other incentives.[39] These actions would reduce the carbon in circulation. Moreover, these renewable energy investments

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[35] A Kiss, 'Introduction to International Environmental Law' 2nd Edition (Geneva: UNTAR 2005)78.

[36] The UN Goals and Principles of Environmental Impact Assessment in 1987, in UNEP an approach to Environmental Impact Assessment for Projects (1987).

[37] The National Council on Climate Change 'About Us' NCCC Publications < https://natccc.gov/about-council/

[38] The Petroleum Industry Act, 2021.

[39] OJ Olujobi, et.all, 'Legal Response to Energy Security and Sustainability in Nigeria's Power Sector Amidst Fossil Fuel Disruptions and Low Carbon Energy Transition' *Heliyon, Open Access, Elseiver BV,* (2023), 9 (7), EL 7912.

in conglomerates should also be part of the definitive carbon tax regime, in as much as they have facilities where carbon capturing occurs.

6. Carbon Pricing as a Means of Bringing in Funds for Infrastructural Development to the Government

The coverage of global emissions has significantly increased from 7% of a decade ago to over 23 of global greenhouse gases. This is a significant increase and has had serious adverse effects on the environment. According to the World Bank in its year 2023 "State and Trends of Carbon Pricing" annual press release, revenues from carbon taxes and Emission Trading Systems (ETS), raked in about \$95 billion.[40] The long term goal of the tax policy is to bring about behavioural changes in manufacturing entities to resort to renewable and other cleaner forms of energy technologies; by imposition of limitations on the amount of emissions they are allowed. It is anticipated that with the coming on board of the Climate Change Fund, taxes that have been collected in partnership with the Federal Inland Revenue Service can be put to good use.[41]

Nigeria's debt burden has steadily been on the increase, peaking around \$108.3 billion in 2023. This has impaired the county's growth rate and put immense pressure on the naira exchange rate. The true picture as seen within year 2022 is that Nigeria's external debt hovers at 40% of the total debts according to figures from the Debt Management Office, (DMO) Nigeria. Coupled with upwardly rising borrowing interest rates, it becomes imperative that new options for internal generation of revenue are optimised.[42] Studies of research by the Centre for the Study of the Economies of Africa (CSEA) amongst other options suggest "Determining the Optimal Carbon Pricing Policy for Nigeria" as a way of raising critical financing through climate finance, not only to cushion the already existing large debt portfolio, but to free more funds towards mitigating future adverse environmental effects from climate change, as well as to fast track other developmental projects to ensure better standards of living for citizens.[43]

According to the World Meteorological Organisation (WMO), global temperatures have steadily been on the rise and may inch up to about 4 degrees centigrade at the close of the century. If no concrete action is taken by nations to halt such warming, disruptions in weather resulting in storms and extreme flooding, as well as unabated bushfires will continue.[44]The carbon tax will primarily affect businesses that are hinged on popular fossil fuels such as 'gasoline, coal, oil and natural gas' which are traditionally known for their high carbon and methane content. When these gases are released into the atmosphere, they contribute to global warming. This is hinged on the 'polluter pays principle'. Such tax is supposed to encourage such businesses to switch to cleaner forms of energy.[45]

The transport sector in Nigeria contributes about 3% of GDP (Gross Domestic Product) and is mostly dependent on fossil fuels. Due to prevailing transportation policies, road remains the most commonly used avenue to move goods and services. Alternatives to high consumption of fossil fuels in the transport sector include a check on the rate of importation of used vehicles. These vehicles have very

[40]The World Bank, 'Record High Revenues from Global Carbon Pricing Near \$100 Billion' Press Release No: 2023/082/CCG of May 23, 2023 https://carbonpricingdashboard.worldbank.org/ accessed 19 November 2023.

[41] Blackwood Stone, Tax Law Firm 'Taxation: Recent Key Developments in Nigeria' http://blackwoodstone.com accessed 13th November, 2023

[42]Mma Amara Ekeruche, Oludele Folarin, Ezra Ihezie Anthony Okon and Tikristini Olasode) 'Fiscal Policy Options for Growing Out of Debt: Evidence from Nigeria' Centre for the Study of the Economies of Africa (CSEA).

[43] Ibid.

[44] Electricity Insights, 'Implementation of Carbon Taxation in Nigeria' accessed 07 December 2023.

[45] Ibid.

low energy efficiency levels.[46] CNG (fuelled vehicles) are also another alternative, but this option has to be accompanied by the setting up of more gas fuelled filling stations.[47]

The focus of this article is to the effect that the revenue generated from a carbon tax regime and some form of fuel subsidy can be ploughed into infrastructural development.[48] How much of their income can effectively be kept aside for carbon taxing? The opinion of informed experts seems to suggest that while they may not buy so much or pay so much, they stand to benefit from spread of infrastructure investments such as water and electricity. At the end of COP27 meeting in the year 2022, there was an agreement to establish a 'loss and damage' fund. The essence of the fund when fully operational will be to assist and cushion nations from losses due to climate change, especially unforeseen climate change induced natural disasters like droughts and rising sea levels which precipitates flooding. The 'Global Peatlands Assessment' was also launched at COP27 to also reduce global warming as Peatlands have been known for its high capacity to sequestrate carbon, and thereby conserve biodiversity.[49] It is suggested that funds gathered from carbon tax regime can also be set aside for this purpose.

It is the submission of this paper that the introduction of the taxation should be in phases in order to reduce the effects on the citizens. In Nigeria, the fuel subsidy removal of 2023 has led to a lot of individual domestic budgetary disruptions and financial adjustments.[50] So the introduction of carbon tax should be gradual also as the tendency is for manufacturing concerns to offload such tax levies at point of consumption, leading to escalating inflation rates.[51] The point of the tax could either be at production or consumption.[52]

7. Modalities for Implementation of the Carbon Tax

At the recently concluded United Nations COP 28 held 2023 in Dubai, United Arab Emirates (UAE), there was a commitment to intensify the rate of fossil fuel phase out in energy production to attain new targets by 2050. At the talks, many governments pledged to hasten decarbonisation by prolific use of alternate renewable sources rather than coal and other heavy fuels.[53]Nigeria along with other nations in the EU, UAE and US were in support of complete elimination of methane emitting fuels for renewable sources such as wind and solar. Other nations such as India and China were more hesitant to fully do away with coal as an energy source.[54]

However, for the successful implementation of the carbon tax system, there has to be an enhanced system of tracking carbon emission levels. This would mean an added cost to corporations to acquire the needed technology as well as efficient energy back -up system. The process of decarbonisation must be gradual to

[46] Chijioke M Amakom & Sambo S Abubakar. 'Decarbonisation of the Transport Sector in Nigeria' (2022) *Environmental Health Insights* 16 (1).

[47] J Belincanta, J.A Akhone, Teixeira da, Silva M 'The Brazillian Experience with Ethanol Fuel: Aspects of Production, Use, Quality and Distribution Logistics. *Braz J Chem Eng*. 2016, 33:1091.

[48]Ira Irina Dorband, Michael Jakob, Jan Christoph Steckel, Hauke Ward 'Double Progressivity of Infrastructure Financing through Carbon Pricing – Insights from Nigeria' *World Development Sustainability* (2022) Volume 1, 100011 www.sciencedirect.com accessed 14 April 2023 (Elsevier).

[49] UNEP, The United Nations Climate Conference (COP27), 'COP27 Ends with Announcement of Historic Loss and Damage Fund' www.unep.org accessed 29 Jan 2023.

[50] Ibid.

[51] Mma Amara Ekeruche, Oludele Folarin, Ezra Ihezie Anthony Okon and Tikristini Olasode) 'Fiscal Policy Options for Growing Out of Debt: Evidence from Nigeria' Centre for the Study of the Economies of Africa (CSEA).

[52] Ibid.

[53] Business Recorder, '117 Countries Agree to Triple Renewable Energy to Push out Fossil Fuels: COP 28' December 08, 2023.

[54]Ibid.

avoid offloading the tax cost on consumers.[55] Significant commitment from oil and gas companies to cut emissions can be amicably reached. Incentives to companies who use cleaner forms of energy and utilise cleaner transportation should be encouraged by way of rebates such as sale of carbon credits, and this means that designated companies may sell their balance of carbon credits to get better financing for their carbon capture technologies and utilization

Again, funding renewal energy systems and decarbonisation is a prerequisite to avoid resort to wood as alternate. Decarbonisation can also be achieved by heightened support for global methane emission reduction "from rice production, livestock operations, and waste management"[56] Challenges to use of renewable sources include rising cost of financing renewable projects such as wind and solar. Efforts must be in place to combat such costs through collaboration with the International Renewable Energy Agency (IRENA). Energy Efficiency should also be deployed with use of renewable sources and to achieve this goal, awareness campaign must be constantly disseminated to the populace by relevant government agencies such Nigeria Electricity Commission (NERC) on ways in which energy can be efficiently utilised to save costs.

There has to be a balance with regards to the extent of which decarbonisation in Africa can take place. A caveat was raised by was raised by African Development Bank Group President Akinwunmi Adesina about the introduction of the new "EU Carbon Border Tax" by the EU. He feels this may roll back years of rapid industrialization in Africa.[57] The observations raised are valid. This is because most African nations like Nigeria are still heavily dependent on fossil fuel like diesel and the next affordable option is gas, which is not as heavy on contribution to atmospheric emission like diesel. Africa's contribution to global trade is quite low at just 3% of $25.3 trillion trade globally. Africa would benefit more; if it could leverage more on inter regional trade exchanges within Africa.[58]

The Federal Inland Revenue Service (FIRS) known agent of collection for federal government levies and taxes. It is left to them and other agencies that might be assigned to work with them to map out the point of collection of the tax. But preceding the implementation of the carbon tax, the tax base has to be identified. There has to be an error proof mode of implementation of the tax, by properly identifying the subjects. A proper identification of the subjects will make it easier to properly assign applicable rates based on margins of ascertained carbon emissions. In the oil sector, they have to decide whether the point of levying the tax will be upstream, midstream or downstream. Again the tax efficiency regime might be better if the parameter used is per barrel of oil rather than emitted CO2. Most operators are ready to imbibe healthy environmental practices provided government is able to provide the necessary back up in terms of monitoring of compliance and sustained enforcement where needed.[59]

8. Comparative Analysis of the Modus Operandi of the Implementation Carbon Tax in Nigeria with South Africa.

South Africa has employed some home grown initiatives to mitigate climate change and atmospheric pollution which has led to very serious outcomes for human habitation such as droughts, desertification and

[55] Electricity Insights, 'Implementation of Carbon Taxation In Nigeria' (February 20, 2023).
[56] Ibid.
[57]Chawki Chahed, "COP 28: Africa could lose $25 billion per year as new EU Carbon Tax comes into effect Warns African Development Bank Adesina" media@afdb.org accessed 08 December 2023 (At the Sustainable Trade Africa Conference held at the UAE Trade Centre in Dubai, article published 06 December, 2023).
[58] Ibid.
[59]David Duff, 'Carbon Taxation in British Columbia' (2008) Vol. 10 Vermont Journal of Environmental Law pp. 87- 107.

challenges for human health.[60] South Africa domesticated the Paris Agreement.[61] The Paris Agreement sets out in Article 2, temperature parameters for party states to adhere to achieve.[62] The Carbon Tax Act 2019 of South Africa aims to reduce carbon emissions which are generated from industrial activities and fuel combustion. It is hinged on the 'polluter pay principle.'[63] As a follow up to carbon tax within its jurisdiction, it may become necessary for African countries to jointly introduce mutually agreed cross border carbon tax on crucial sectors such as on steel plants, aluminium smelters and fertiliser production companies.

9. Challenges that will accompany the Introduction of the Carbon Tax

Many companies do not have the capacity to install 'transformative technologies' such as those that reduce carbon emissions in their facilities. In the event that they secure the needed financing to upgrade their facilities to be carbon friendly, the outlay of the carbon tax would be shifted to consumers.

Clean energy and carbon mitigation are relatively new impetus and it would be wrong to punish older concerns that still burn coal and other fossil laden fuel without the provision of a cheaper and more readily available alternative. For instance, gas flaring decreasing is not as a result of cleaner procedures according to the Nigeria Gas Flare Tracker – (GFT) in collaboration with National Oil Spill Detection Agency (NOSDRA)[64], but by decrease in produce due to oil theft. Besides, alternate use of gas is not exactly a clean energy source, but it has way lower carbon content than fossil sources such as coal and diesel.

10. Conclusion and Recommendations

One of the easiest ways to reduce Nigeria's carbon footprint is to lower the pace of carbon emissions. At present, the pathway of adding more consumers to the on-grid renewable framework in Nigeria has not been properly implemented. For example, most solar generating companies despite the federal governments 'power purchase agreements' have not been able to fully provide the grid with the needed supply. Court summons may be employed to prosecute residents and other stakeholders who do not remit their taxes as and when due. Resistance to payment of carbon tax may be reduced by lowering the amount of carbon in circulation in the first place, which then means lower annual payments. This can be achieved if alternate clean energy development mechanisms are employed such as biomass gasification and encouragement of more businesses to capture their carbon output.[65]

There is so much that a carbon taxation policy can achieve. The need for concerted global efforts to reduce the climate crisis is still very much needed. One of such is the launch by of a satellite –based system to detect methane emissions that escape from oil and gas installations. The danger of methane is often overlooked because it is odourless and colourless, yet it accounts for about 25 % of contributions to global warming.[66] Many nations have introduced Emission trading systems (ETS). This is because some entities have lower levels of green house gas emissions, and they are allowed to sell off their extra emission units. However, this system controls the exchange between entities to ensure that their transfer to users of higher units, does not act as an enabling act, which will wipe off the gain in carbons output that would have been achieved from the lower emitter.[67]

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