JOINT COMMITTEE ON CUSTOMS, EXCISE & TARIFF AND MARINE TRANSPORT

INTERIM REPORT

ON THE INVESTIGATION INTO THE ACTIVITIES OF THE NIGERIAN CUSTOMS SERVICE

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INTERIM REPORT OF THE JOINT SENATE COMMITTEE ON CUSTOMS, EXCISE & TARIFF AND MARINE TRANSPORT ON THE INVESTIGATION INTO THE ACTIVITIES OF THE NIGERIAN CUSTOMS SERVICE

1.0 INTRODUCTION

The Senate of the Federal Republic of Nigeria at its sitting on Tuesday, 15th November, 2016; debated a motion on the "Urgent need to Examine the Operations of the Nigerian Customs Service Revenue Drive and resolve to:

> "mandate the Committee on Customs, Excise and Tariff to carry out a holistic investigation into the activities of the Nigerian Customs Service with a view to identifying the leakages and irregularities as well as the causes of the declining revenue profile of the service and come up with recommendations that will reinvigorate the revenue of the Nigeria Customs Service" (S/Res/051/02/16)

Also, during plenary on Thursday, 4th May, 2017, The Chairman of the Senate Committee on Customs, Excise and Tariff, Sen. Hope Uzodinma, rising on Rule 42 & 52 sought and obtained leave of the Senate to allow the Committee on Marine Transport to join in the investigation. He had stated thus:

> "Cognizance that for the Committee on Customs, excise and Tariff to do a holistic investigation and properly trace some of these leakages, which involves Nigerian Ports Authority (NPA); Nigerian Maritime Administration and safety Agency (NIMASA); Nigerian Shippers Council; Shipping Companies; and Operators of Bonded terminals, the cooperation and the support of the Committee on Marine Transport id required"

Accordingly, the Senate resolved to:

> "Mandate the Committee on Marine Transport to join the Committee on Customs Excise and Tariff in the investigation" (S/Res/155/02/17)

This joint committee proceeded to equip itself with a crash course on forensic investigation, business intelligence, resource mapping, extant laws, custom software systems and engagement of resource persons that would ensure a credible exercise.

The committee immediately identified the following leakage channels as the major sources of revenue losses in the import/export value chain.

1. Undervaluation (due to low ex-factory price, reduction in quantity or false description)

2. Wrong Tariff Classification.

3. Misuse of procedure codes.

4. Abuse of waivers and concessions (e.g. Special Investment Incentive Package for Establishment of a 5 Star Hotel of 100 rooms, Multi-Storied Factory Complex, School Facilities and Shopping Complex issued by Ministry of Finance) and Import Duty Exemption Certificate (IDEC).

5. Abuse of diplomatic cargo and personal effects privilege to clear consignments actually meant for commercial use.

6. Transfer of value, assigning higher value on Pre-Arrival Assessment Report (PAAR) to goods with lower rate of duty on Single Goods Declaration (SGD).

7. Pre-Arrival Assessment Report (PAAR) is used by more than one Single Goods Declaration.

8. Non-Utilization of Pre-Arrival Assessment Report (PAAR) after Single Goods Declaration (SGD) Cancellation.

9. Mismatch a discrepancy in consignees, goods description, tariff classification and
10. value on Single Goods Declaration (SGDs), Pre-Arrival Assessment Report(PAAR) and Bills of Lading.

11. Falsification of import documentation such as pro—forma invoice, final invoice, bills of lading, NAFDAC and SONCAP.

12. Non imputation of complete VIN (Vehicle Identification Number) in inspection acts and Bills of Lading in order to undervalue vehicles.

13. Clearance of brand new vehicles without Form M or Pre—arrival Assessment Report (PAAR) processing in clear violation of Destination inspection.

14. Discrepancy between Pre-Arrival Assessment Report (PAAR) assigned values and tariff classification 'and that declared on Single Goods Declaration (SGD) leads to loss of revenue.

15. 'Flying' of consignment (importer takes delivery of consignment from ports or border station without payment of import duties) as indicated by the alarming volumes and values of unutilized Pre-Arrival Assessment Reports (PAARs), Bills of Lading and Unpaid Assessments in the ASYCUDA database.

16. Abuse of temporary importation by conversion to home use without payment of import duties.

17. Falsification of factory production registers, inaccurate Unit Cost Analysis (UCA) and returns leading to significantly low excise duty collected as compared to actual large scale volumes of excisable commodities locally manufactured.

18. Abuse of fast-track Blue Lane.

19. Illegal creation, amendment, and cancellation of Single Goods Declaration (SGDs), Pre-Arrival Assessment Reports (PAARs) and Bills of Lading.

20. Abuse of National Automotive Council Policy on importation of 2 brand new vehicles of the same brand for each CKDI SKD assembled locally by *bona fide* assemblers (to evade payment of 35% import Adjustment Tax (IAT) on brand new vehicle importation).

21. Importation under pretext of Completely Knocked Down (CKD) privilege reserved for *bona fide* manufacturers, leading to reduction in import duties payable.

22. Misuse of bonded terminal privilege by outright diversion of consignments during transfer to bonded terminal, also high volume of fraudulent activities at these terminals.

23. interference with ASYCUDA's risk profiling engine by indiscriminate and unsupervised electronic rerouting of Single Goods Declaration (SGDs) to avoid scanning (Yellow Lane) and 100% physical examination (red lane), especially for used items.

24. No electronic manifest, commercial invoice or bill of lading submission for declarations at border stations, thus making it virtually impossible to ascertain actual duty collectable due to commercial description, quality and quantity of goods. As such, arbitrary values are assigned, this is a huge source of revenue loss.

25. Vague description of goods on import documentation and Pre-Arrival Assessment Reports (PAARs) in clear violation of Destination inspection guidelines. General Descriptions such as 'supermarket goods', 'spare parts', 'used vehicles', 'building materials', 'tailoring materials', 'electrical goods', 'industrial goods', 'used electronics' etc, are used to evade payment of import duties

26. Multiple issuance of Tax Identification Number (TIN) to importers by Federal Inland Revenue Service (FIRS). This makes tracking, monitoring and enforcing sanctions quite cumbersome because one importer operates under several TINs. This also creates distortion in statistical data.

27. Multiple Ownership of Customs Clearing Agency Licenses by Individuals as a result of poor Licensing and Permit System. As such, declarants can abandon their licenses after defaulting and apply for new ones.

28. Sale of Bulk Form Ms and Pre-Arrival Assessment Report (PAARS) by importers and clearing agents.

29. Clearance of goods at airports and post offices with arbitrary values and weight, without processing of Pre—Arrival Assessment Reports (PAARs) as specified in Destination Inspection (DI) guidelines. This-has led to astronomical loss of revenue.

30. Abuse of Free Trade Zone (FTZ) by improper documentation, lack of control (because the process of issuance of landing certificates is not automated) and diversion of goods to the open market without duty payment.

31. Submission of forged documents for Pre-Arrival Assessment Reports (PAARS) and Single Goods Declarations (SGDs) processing.

32. Origin fraud involving false declaration of country of origin in order to secure illegal access to preference tariff regimes. e.g. zero rate of duty applicable under ETLS (ECOWAS Trade Liberalization Scheme).

These infractions within the system disproportionately distort the economic profile of the country and place extensive pressures on the nations scarce foreign exchange.

It also negates all Central Bank of Nigeria initiated foreign exchange management plans. This is because a distorted forex requirement does not essentially reflect the actual forex needs of individuals and businesses in the country. This situation benefits only the purveyors of capital flight from the country and adds absolutely no value to the nation.

When superimposed with the prevalent weak regulatory systems as is currently administered by the various agencies and authorities within the import/export value chain, the problem is further aggravated.

For instance, the situation where a conglomerate owns key collaborative business within the export/import value chain essentially foists on the nation a quasi-monopoly. A private terminal operator, who owns or possess significant interests in a shipping company, bonded warehouse, clearing agency, impórt and export business, logistics company, etc. have essentially encircled the import/export value chain and can manipulate the industry at their whim.

2.0 METHODOLOGY

2.0.1 DATA HANDLING: The committee in consort with their resource persons and consultants created a cutting-edge software using the critically accumulated business logic and intelligence to evolve a platform that has the under listed features:

a. **Data Gathering:** raw data from various sources including but not limited to, the Central Bank of Nigeria, Commercial Banks, Shipping Companies, Import/export Logistics records, government agencies, international organizations and key businesses within the import/export value chain were meticulously collected.

b. **Data Analysis:** the data that was gathered from the above module, apply the standard rules and tariffs as prescribed by the relevant laws and regulatory authorities to effectively compute the intended income to the government.

c. **Compares** the computed data with the available raw records as evidenced by cross-referenced supporting data for every transaction. This will yield the differential between what was collected and what was actually due to the country.

d. **Presents** a digital utilization profile of each transaction in such a way that every claim must be multi validated with diverse transaction records in other to be valid.

e. **Forecasts** where the leakages occurred and objective steps that would implicitly prevent future occurrences.

f. **Identifies** the proper tariff regime as enunciated in the current tariff book and forestalls incidences of wrong classification and ancillary infractions.

g. **Reconciles** the collections from commercial banks and actual remittances to the federation account. This raises a real-time audit check that prevents the escalating of infractions due to non or partial remittance of collections to the federation account.

2.0.2 MEETING / PUBLIC HEARING: The committee requested for memoranda through newspaper publications and also invited key stakeholders to a one-day public hearing, held on Thursday, July 20th, 2017.

Armed with concise data from its data handling process, the committee proceeded to invite the concerned commercial banks and presents them with relevant data in soft and hard copies for their response. This reconciliation due to its volume and critical impact is painstakingly on-going.

The committee then invited a carefully selected set of companies from diverse sectors of the economy to validate their methods and present a reliable template for dispassionately completing their task.

The companies were then given ample time to study the records and counter the records with their own data or admit their culpability. Though this portion of our work has reached an advanced stage, the process is still on-going.

Triggered by the thorough nature of the data presented to them, some companies have through their independent self-audit commenced the process of paying to the government such transactions dating back to 2009 / 2010 and presenting evidence of such payments to the committee.

3.0 FINDINGS

3.0.1 COMPANIES INVITED

In the course of this investigation, as stated previously we have invited a carefully selected 60 companies spanning diverse industries within the economy.

3.0.2 IMPACT ON FOREX

The widespread nature of this malfeasance has not only stunted the growth of genuine industries in the economy but has continuously weakened the nation's currency in comparison with other regional and international currencies.

A situation where the Central Bank of Nigeria, who is the administrator of the Comprehensive Import Supervision Scheme (CISS), is handicapped by its inability to access empirical records of the country's actual trade volumes, and have no concrete programme for ensuring the monitoring and compliance of their foreign exchange manual, prevents them from providing a concise forex utilization profile of the companies that source forex from them. This is our view indicates a much deeper problem than what has been uncovered.

From our established records, it is obvious that well over 65% of our Forex allocation have no positive impact on the Nigerian economy but rather engenders a thriving money laundering and forex round tripping racket.

3.0.3 REMITTANCES

The committee identified a huge mismatch between the actual remittances to the Central Bank and the duty, taxes, and levies collected by the approved collection banks. Evidence of these identified shortfalls has been presented to the commercial banks for their review.

While this reconciliation is currently ongoing, the commercial banks pleaded for extension of the previously agreed timelines, to enable them assemble all relevant records and data for their defense.

3.0.4 TRADE VOLUMES

Our interrogation of trade volume records, obtained from international resource databases, shipping manifests, bills of laden, National Bureau of Statistics and other credible sources, in correlation with the purportedly allocated foreign exchange to the importers of these goods indicates a worrisome mismatch.

In clear incidences of partial shipment or abandoned importation processes that are typically the root cause of the above-mentioned mismatch, the absence of empirical data for the volume of goods actually imported into the country makes it impossible to capture a true forex utilization profile.

The committee has commenced diligent engagement with all relevant stakeholders with a view of understanding the underlying reasons for this state of affairs. This insight will form part of the recommendations in the final report.

3.0.5 QUASI-MONOPOLY

As was previously mentioned, the unregulated systems that allow conglomerates to sidestep global regulatory standards through the veiled ownership or management of end-to-end collaborative businesses within the import/export value chain, effectively foist a quasi-monopoly on the industry.

While the committee is studying the guiding regulations and laws in the issuance of such licenses and permits, it is also in keen consultation with the managers of the various agencies that superintend this licensing and permit process with a view of elucidating from them a proper and measured response that introduces transparent audit checks and balances in the system.

3.0.6 KNOWLEDGE BASE

The Committee observed that the turnover of trained and knowledgeable operatives of the Nigerian Customs Service due to retirement has eroded and depleted the levels of expertise within the NCS.

The succeeding operatives who have not been adequately trained cannot in effect fill the gaps that are created by their departing colleagues.

The committee is currently interacting with the leadership of the NCS in other to present a forward roadmap out of the current situation. The outcome of this interaction will be contained in our detailed final report.

3.0.7 RECOVERIES MADE SO FAR

As a result of this exercise, some collection banks has made additional remittances to the central bank of Nigeria to the tune of N128 Billion and evidence of payment and receipt have been received by the committee.

From the selected 60 companies, over N12 Billion payments have been made to the government voluntarily by the companies based on their own internal self-audit after receiving documented evidence of their culpability from our committee.

Distinguished colleagues, it is instructive to note that despite all the payments so far made, **none** of the approved collection banks or the selected companies have fully cleared the established liabilities against them.

3.0.8 NEED FOR FURTHER WORK

The demonstrable achievement of this investigation cannot be overemphasized as it is overtly glaring.

It is instructive to note that the selection of the companies that were used to establish the facts of this investigation cumulatively represent less than 1% of the entire import/export value chain.

This implicitly presents a compelling reasoning and justification for this investigation to realistically and sustainably act as a sustained check and balance to the system.

It also enables the Senate to acquire sufficiently conclusive data that effectively benchmark the findings while enthroning a system that proactively responds to the dynamic transformation of these noted infractions.

3.0.9 SUMMARY

While this is still a work in progress in our view, it has broken new grounds in terms of the mind-boggling discoveries already made and the deeper insight that has been exposed. The speed at which the evolution of new processes and methodologies were conceived and deployed is also worthy of note.

Distinguished Colleagues, it is our considered opinion that since we have gone past the teething challenges associated with starting this investigative process, we have now achieved a predictably more efficient threshold that guarantees rapid delivery of the required results.

We also look forward to the infusion of the insights and strategies garnered from this exercise in our various oversight functions in other to deepen our role in the struggle to revamp the fortunes of our dear country.

It is evident, that the sustained presence of the Senate through the investigative oversight of the committee will set the stage for the actual institutionalization of the findings of this exercise.

4.0 RECOMMENDATION

It is our view that within the next 8 weeks, the ongoing stages highlighted in sections 2.0.2, 3.0.3, 3.0.4, 3.0.5, 3.0.6 and 3.07 would have been successfully concluded, thus enabling this committee to deliver a compelling and comprehensive report that will emphatically signpost a departure from the past and bear eloquent testimony to the strides achieved by this present 8th Senate.

5.0 CONCLUSION

The members of the committee appreciate the opportunity that this call to service has afforded them, to concretely and patriotically contribute their quota and service in the relentless struggle to reposition our country for a greater future.

MEMBERSHIP OF THE JOINT COMMITTEE

S/N	NAMES OF SENATORS	DESIGNATION	SIGNATURES
1.	Senator Hope Uzodinma	Chm, Customs	
2.	Senator Ahmad Sani Rufai	Chm, Marine	
3.	Senator Samuel N. Anyanwu	V/Chm, Customs	
4.	Senator Ahmed Ogembe	V/Chm, Marine	
5.	Senator Ovie Omo-Agege	Member	
6.	Senator Nelson Efiong	Member	
7.	Senator Clifford Ordia	Member	
8.	Senator Obinna Ogba	Member	
9.	Senator Ben Uwajumogu	Member	
10.	Senator Abdullahi Gumel	Member	
11.	Senator Ben Murray Bruce	Member	
12.	Senator Duro Faseyi	Member	
13.	Senator Rose O. Oko	Member	
14.	Senator Dino Melaye	Member	
15.	Senator Fatima Raji-Rasaki	Member	
16.	Senator Olusola Adeyeye	Member	
17.	Senator Mao Ohuabunwa	Member	
18.	Senator Usman N. Bayero	Member	
19.	Senator Joshua Dariye	Member	
20.	Senator Emmanuel I. Paulker	Member	