The Environmental Conservation Levy Bill; Myths and Realities

This refers to the article by Mr. Hemantha Withanage Executive Director; Centre for Environmental Justice titled 'National Environmental Levy Bill, Adaptation Funds and politics!' which appeared in The Island dated 16 /04/2008.

This article unfortunately provides a distorted version of the recently passed Bill of the Environmental Conservation Levy Act. It is not clear whether the writer has misdirected himself to the salient features of the Act and the background and rationale behind it or whether the writer is unfamiliar with the issues that he endeavours to deal with. Hence as the person directly involved with the formulation and coordination of the proposed Bill it is my duty to put the correct version as per the Central Environmental Authority (CEA).

First of all it should be stated that this Act is not related to imposition of taxes on the poor for using phones and electricity or on specified households and however a portion of the levies collected will be used to face the consequences of global warming which the writer should appreciate that is a national necessity that we would face in the future. This has been acknowledged by the writer who has opened his article with the same lament hence he should appreciate that there is an effort to create a fund to meet this potential threat. The writer may be aware that there is no adequate contribution to global adaptation fund by the big polluting nations and therefore we have no choice but to take all necessary measures at the national level to mitigate adverse impacts. It is obviously understood that there are no manmade boundaries for environmental impacts even for natural disasters induced by the human being.

It is unfortunate that the writer attempts to misinform people this Act intends to impose levies for the users of phones and electricity. The writer is kindly invited to read the Bill that was passed by the Parliament and if he has problems in comprehending the contents he is welcome to contact us and get the documents that are available to the public since the inception of the Bill. We are surprised to see that we have been accused that there was no public consultation as there were several consultations with concerned groups, environmentalists, the professionals including the members of the Institute of Environmental Professionals, Advisory Council of Ministry of Environment and Natural Resources, Environmental Council and Finance and Planning Consultation Committee (second session of the sixth Parliament) and etc. The Central Environmental Authority encourages discussions because this is a new concept to Sri Lanka. Anyone who was in the country at the time was able to contact us and participate in one of the above mentioned meetings or meet us or communicate with us and to get all necessary documents from us which were and are still available to the public.

The statement that 'while the tax itself not justified in the bill" shows that the writer is not aware of the basic principles in the legal enactments and the process behind them. This is evident as no Bill or Act gives any justification for the simple reason that an Act can only have the legal provisions that are necessary to bring about the intended purposes of the Act. The justifications are provided in the preceding documents such as concept papers, policy papers and ultimately in Cabinet memorandum.

The writer is correct in his claim "it is a well accepted fact that all electronic devices such as computers, mobile phones to name a few items produce a lot of pollution". However he has totally misdirected himself as regard to the proposed solution because "Extended Producer Responsibility" cannot be adopted by Sri Lanka unlike his example of South Korea as such items are imported to Sri Lanka from other countries. Example of South Korea cannot be comparable to Sri Lanka for the simple reason that South Korea is a producer of many electronic items. However it should be stated that we have strived to bring about the same by charging a Green Cess from the importers of such items which is the only feasible option left to us. Though a levy was imposed either on the producer or on importer the burden of the tax will be finally on the customer because it is the nature of the indirect taxes. The Green Cess is intended to establish a system of collection, sorting and disposal or if possible recycling. It is therefore totally misleading and incorrect to say that this Act does not provide such a mechanism.

The Sri Lankan government's 'controversial bill' introduces several Market Based Instruments or Economic Instruments for the benefit of environment and to promote sustainable development of the country. Economic Instruments increase the efficiency in resource use by decreasing total demand and reducing environmental damage while generating revenues which can be used for environmental investments. However the experience with environmental taxation in developing countries has been limited compared to that of more industrialized countries.

The Central Environmental Authority bears the responsibility of the levies that we will impose and each type of levy has been clearly defined. For example the Green Cess will be imposed on the commodities which require particular recycling or disposal method for an environmental friendly end. The CEA has enough competent officers on Hazardous Waste Management and on their advice the commodities that have to be levied will be identified by making a set of selection criteria. As any environmentalist knows, the revenue collected by the Green Cess is utilized for the proper management of the waste of levied commodities.

The writer has mentioned that he had been communicating with the CEA since 2004 to bring such legislations under the National Environmental Act 1980. However to my knowledge the writer or any representative of the Centre for Environmental Justice has not communicated with the current Chairman of the CEA to bring such legislations.

A word should be stated about the social issues mentioned by the writer. There is no evidence that the use of electronic devices reduced travelling time or space. In contrast those have increased the amount of travel. This is due to the better communication that makes up for more human relationships and the information that generates a longing in the people's minds to see a venture into hitherto unseen and unknown areas. This phenomenon has contributed a lot to climate change and global warming as more travel means the consumption of more fossil fuels. Probably the writer is aware being a NGO person himself that how many NGO foras are held to discuss climate change and how much travelling those entails. All this has been brought about due to improved information and communication.

According to the writer, the major issue of the Bill is the social cost of adverse impacts to communication due to the proposed taxes on mobile phones and televisions. Such electrical items will be levied by the Green Cess because the wastes generated by those items include hazardous materials such as heavy metals. As mentioned earlier the Green Cess bears the responsibility of managing selected hazardous waste and it is better to think twice about the comparability of the environmental damage cost of such hazardous wastes and the social cost which the writer mentioned.

Obviously the sixteenth principle of the Rio Declaration (1992) on Environment and Development is not to stop the pollution. It is expected to internalize the environmental damage cost of pollution through MBIs. However it is clear that nobody can assess the real damage cost of a particular waste and the CEA is in an effort to assess the reasonable disposal or recycling cost. Currently the practices of pollution control conducted by the government bodies are funded by the treasury funds that are raised from the polluters and non-polluters together in the form of various taxes such as VAT which can be considered as very unfair because both polluters and non polluters pay for the controlling measures. The internationally well accepted Polluter Pays Principle which means the polluter has to pay for polluting activities and the non- polluter does not have to pay for pollution control is applied by this Levy Act. Therefore, it can be stated that the policy introduced by this Act is more poor friendly and the ultimate benefit of pollution control and environmental investments is also enjoyed by the poor.

We say again the fact that there is no taxation for televisions and telephones but in an Extended Importer Responsibility, the importer has to pay a levy (the Green Cess) which is intended to cover up the ultimate disposal or recycle cost. This cannot be construed to give a mischievous meaning that it will intend to levy access to information. It is not clear how the poor and marginalized communities suffer more due to this principle which the writer erroneously describes as "this business friendly principle".

Finally we hope that the writer will be concerned about the process of imposition of the levies without a muddle-headed situation.

Chathurika Gamlassage
Environmental Officer
Environmental Economic Affairs Unit
Central Environmental Authority

The Island - 25/04/2008.