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# Legal Appraissal of Nigeria's External Debt

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**Abstract**
This paper investigates some of the issues that necessitated the country to go into external borrowing. Some of the challenges facing the economy which is evidential today are caused by mismanagement or mishandling of external loan. Consequently, the study proffered some solutions on how to manage Nigeria's external debt, thereby highlighted some policy measures that if implemented would accelerate the level of economic growth and development and increase the standard of living of every citizen which among other reasons are the core motives of borrowing externally.

## 1. Introduction

It is the earnest desire of every country in the world to achieve economic growth and development. However, this is possible if a country has adequate resources. In developing countries like Nigeria, the resources to finance the optimal level of economic growth and development are limited in supply. This is as result of the economy bedeviled with problems of low domestic savings, low tax revenues, low productivity and the meager foreign exchange earnings. In order to achieve economic growth and development, Nigeria resort to external financing to bridge the chasm between their savings and investments. External debt refers to unpaid portion of foreign resources acquired from developmental purposes and balance of payment support, which are not repaid as they fall due. External debt is debt owed by a country to other countries or institutions abroad.[1] On the other hand, external reserves consist of official public sector foreign assets that are readily available to and controlled by the monetary authorities, for direct financing and regulating of payment imbalances through intervention in the exchange markets.[2] Essentially, it has been asserted that the effect of public debt on external reserves cannot be overemphasized since, basically, external debts have to be settled in foreign currency.[3] This paper aims to look into the issues and challenges of external debt management in Nigeria and make valuable recommendations.

## 2. Historical Perspective[4]

Nigeria external debts can be traced to 1958 when the country first borrowed the sum of US$28 for railways construction. Since then, a number of external debts has been contracted with the total external debts outstanding remaining as low throughout the 1960's and 1970's. From the comfortable position of lending even from the International Monetary Fund (IMF) and African Development Bank (ADB), Nigeria became one of the biggest debtor nations in the world and was listed among the fifteen (15) most indebted nations in the banker plan list.[5] At the end of civil war in 1970, the country's external indebtedness was relatively low and was of little significance till 1974. But by 1977, external debt of Nigeria was N496.9 million and it rose by over 205% to N1, 265.7 million US and 2.2 billion referred to as the "Jumbo loan". With huge debt outstanding, debt service obligations rose at an increasing level as a result of rising interest rates in the international money market.

This was however followed by huge external borrowings in the mid 1980's to finance large capital projects for economic development in the face of dwindling oil revenues occasioned by the glut in the international oil market. The level of external debts stock worsened primarily due rise in interests rates and recapitalization of the accrued interests on loans. The situation became more aggravated with the entry of state governments into the external loans contractual obligations with many of the loan having unfavourable terms and indeed mismanaged. Consequently, the total debts stock grew rapidly from less than US$1.0 billion in 1970 to US$18.5 billion in 1985 and further to US$34.1billion in 1995. It however declined to US$30.9 billion in 2002 before rising to US$32.9billion in 2003 and subsequently to US$35.9billion in 2004. Nigeria however made a cumulative debt service payment of about US$37 billion to all the external creditors between 1985–2004 [6]. In 1986, the country had recognized that the debt profile was unsustainable and thus began round of negotiations with the Paris Club and other external creditor group to address its precarious debts situation.

During that period, Nigeria was able to secure debt restructuring at the last in 2000. A major outcome of that

[1] I. O. Ajibola, U. S. Udoette, B. S. Omotosho, and Rabia, (2015) "Non linear Adjustments between Exchange Rates and External Reserves in Nigeria: a threshold co integration analysis," *CBN Journal of Applied Statistics*, vol. 6, no. 1.
[2] IMF,(2003) "Are Foreign Reserves in Asia too high?" in *World Economic Outlook*, H. Edison, Ed., chapter 2, *International Monetary Fund,* Washington, DC,USA.
[3] P. J. Obaseki, "Foreign Exchange Management in Nigeria, Past, Present and Future," *CBN Economic and Financial Review*, vol.39, no. 1, pp. 12–223, 2007.
[4] See generally Central Bank of Nigeria, 2005 Annual Reports and Accounts.
[5] IMF , op.cit.
[6] (Central Bank of Nigeria, 2005 Annual Reports and Accounts)

effort was the reaching of restructuring agreement with the Paris Club in December, 2000 based on Houston Terms. Under this term was a debt restructuring package for lower/middle income countries with per capital income of between US$785.0 and US$3,125. In that process, Nigeria rescheduled about US$21.4 billion Paris Club debts for 18–20 years period[1]). Also the Official Development Agency (ODA) credits were rescheduled to over 18years at market based interests with a 3 years grace period. Nigeria's external debt stock continued to accumulate as Holterm only allowed for a deferral payment with no provision for actual debts reduction by 2004. By 29th June 2005, Nigeria had secured a major breakthrough with Paris Club agreement to grant Nigeria an International Development Assistance Only status which was supportive of debt relief struggles. This followed an agreement reached to cancel 60% or US$18billion. Nigeria had owed the Paris club a total sum of US$30.85billion constituting of principal of US$25.20b and arrears of US$5.65billion. The agreement involved a debt reduction under the Naples terms on eligible debts and a buy-back at market related discount on the remaining eligible debts after reduction and was to be implemented in two phases conditional on the implementation of a comprehensive economic reform programme under the policy support instrument.

Following the signing of an IMF stand-by agreement in August 2000, Nigeria received a $1 billion credit from the IMF, both contingents on economic reforms. Nigeria pulled out of its IMF program in April 2002, after failing to meet spending and exchange rate targets, making it ineligible for additional debt forgiveness from the Paris Club. In November 2005, the Federal Government of Nigeria won Paris Club approval for a debt-relief deal that eliminated $18 billion of debt in exchange for $12 billion in payments–a total package worth $30billion of Nigeria's total $37 billion external debt.[2]. Nigeria’s external debt continues to accrue to date and the management of such debt continues. According to The Debt Management Office, DMO, the nation’s total debt profile currently stood at $57.39 billion.( outgone DG of the DMO Dr. Abraham Nwankwo disclosed this when he appeared before the Senator Shehu Sani’s Committee on Foreign and Local Debts to defend his agency’s budget proposal on 19th February 2017. According to him, the total debt stock comprised external and domestic debts of the federal government, those of the 36 states of the federation and the Federal Capital Territory, FCT, as at December 31, 2016. He further explained that of the total debt stock, external debt stood at $11.41 billion. Also according to him, the 36 states and FCT accounted for about 32.45 percent of the total external debt as at December 31, 2016, while the federal government accounted for about 67.55 percent. He further added that the disaggregated external debt stock of the 36 states and FCT as at June 2016 was $3.65 billion.[3]

Summarily the origin of Nigeria’s debt has been viewed from different angles – the legal document authorizing external borrowing and from the angle of the time when the first foreign loan was contracted. Viewing from the legal document authorizing external debt, the origin of Nigeria external debt can be traced to the “External Loans Act”, No. 9 of 1962. The reason is that the act was the first legal document that authorized the Minister of Finance to raise loans outside Nigeria, not exceeding £300 including the amount necessary to defray the expenses of contracting the loans. On the other hand traces the origin of Nigeria’s external debt to the pre-independence era, precisely 1958 when Nigeria contracted her first loan (US$28 million) from the World Bank, for railway extension in the country. The external debt of Nigeria remained relatively low during the oil boom such that she lent money to such institutions as the International Monetary Fund (IMF) under oil facility in 1974. The position changed dramatically in 1977 when the oil boom collapsed and government finances became so low that it became necessary to borrow for balance of payment support.

## 3. Nature of Nigeria's External Debts[4]

External Public Debt is the aggregate of all claims against the government of a country held by private or public sector of a foreign economy. It may be interest or non-interest bearing including bank held debts and government currency less any claims held by the government against such foreign creditors,[5]. Nigeria has exited about N18 billion worth of debt in 2005. These loans were mainly from Paris and London Club of creditors. The nature of Nigeria debt for the purposes of this work is classified according to the type of creditors. The key creditors to Nigerian are categorized as follows:

**(a) The Paris Club:**

The Paris Club of creditors had remained Nigerians major creditor. Their debts are government-to-government credits or market-based term loans which were guaranteed by various Export Credit Agencies of the creditor countries. The Paris Club is a cartel of creditor countries that provides an informal forum where countries experiencing difficulties in paying their official debt meet with the creditors to reschedule the debts. Nigeria had however exited the Paris Club debts through the debt cancellation of US$18b it granted Nigeria in 2006 and the

[1] (Central Bank of Nigeria Annual Reports and Accounts, 2005
[2] (Index Mundi, 2012).
[3] See generally Nigerian Vanguard Newspaper ( 20-02-2017)
[4] See generally Falana O. (1990). “The Dynamics of Nigeria’s Negotiations with London and Paris Clubs”, In Olukoshi A. edited, *Nigerian External Debt Crisis: Its Management*, Malthouse Press Limited, Lagos, pp 63-70.
[5] Anyanwu, J. C. (1997). *The Structure of the Nigerian Economy (1960–1997).* Onitsha: Janee Education publishers

subsequent payment of US$12b.

**(b) London Club Debts (Par Bonds):**

The London Club is a group of commercial banks that join together to negotiate the restructuring of their claims against debtor countries. London Club debts are arrears of commercial bank term loans. They also include some arrears of letters of credit, bills for collection, open accounts, dividends, airline remittances etc. The debts were consolidated in 1991 and amounted to US$5,437 billion. Out of the stock, the term loans contracted by FGN and the arrears of the non-term loan components were bought-back in January, 1992.

**(c) Multilateral Debts:**

Multilateral Debts make up the second category of debts owed by Nigeria. These are project loans owed to multilateral financial institutions (e.g., the World Bank Group, the African Development Bank Group, the European Investment Bank Group, IFAD, and ECOWAS Fund) by federal and state governments and their agencies. The total amount owed to multilateral institutions as at December 31, 2011 was US$4,568.92 million.

**(d) Non Paris Club (Bilateral Debts)**

These are debts owed to other countries, which are not members of the Paris Club and creditors resident in Paris Club countries but whose debts are not insured by the Export Credit Agencies. The amount owed to this category of creditors was US$547.66 as at 31st December, 2011.

**(e) International Capital Market:** Nigeria has in 2011 raised a capital through the issue of Euro bond amounting to US$500 million.

## 4. Why Countries Borrow[1]

Generally, the need for public borrowing arises from the recognized point of capital in the development process of any nation as capital accumulation improves productivity which in turn enhances economic growth. There is abundant proof in existing literature to indicate that foreign borrowing aids the growth and development of a nation). Countries borrow for major reasons. The first is of macroeconomic intent, that is, to bring about increased investment and human capital development while the other is to reduce budget constraint by financing fiscal and balance of payment deficits. Furthermore, countries especially the less developed countries borrow to raise capital formation and investment which has been previously hampered by low level of domestic savings. Ultimately, the reasons why countries borrow boils down to two major reasons which are to bridle the "savings-investment" gap and the "the foreign exchange gap".

It has been pointed out that the main reason why countries borrow is to supplement the lack of savings and investment in that country.[2]

The dual-gap analysis justifies the need for external borrowing as an attempt in trying to bridge the savings-investment gap in a nation. For development to take place, it requires a level of investment which is a function of domestic savings and the level of domestic savings is not sufficient enough to ensure that development takes place. The second reason for borrowing overseas is also to fill the foreign exchange (import-export) gap. For many developing countries like Nigeria, the constant balance of payment deficit have not allowed for capital inflow which will bring about growth and development. Since the foreign exchange earnings required to finance this investment is insufficient, external borrowing may be the only way to access the resources needed to achieve rapid economic growth

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## 5. Causative Issues of Nigeria's External Debt[3]:

In the early periods of 1980s, Nigeria was considered under borrowed by the international financial communities and most creditors were eager and willing to lend to Nigeria. According to Debt Management Office of Nigeria, 2012, the issues that led to Nigeria's external debt burden can be grouped as follows:

- **Inefficient trade and exchange rate policies**: Both the trade and exchange rate (monetary) policies were not quick enough to respond to show the external value of the naira at a time when there was a downturn in the oil market which led to a reduction in the flow of resources into the economy. This led to embarking upon foreign borrowing and in turn the accumulation of external debt.[4]
- **Adverse exchange rate movements**: Due to the inefficient exchange rate policies, Nigeria's exchange rate system was not flexible enough to adjust to fluctuations (upward and downwards movements) in the foreign exchange market which led to continuous external borrowing.
- **Adverse interest rate movements**: Also the debt quagmire of Nigeria can be attributed to external

[1] See generally F.E. Onah, (1994) "External Debt and Economic Growth in Selected African Countries" , F.E. Onah edited in, *African Debt Burden and Economic Development*, Nigerian Economic society, Ibadan. pp 141-150

[2] Chenery (1966),"The Two-Gap Model of Economic Growth in Nigeria: Vector AUTOREGRESSION (VAR) Approach" available at www.gtap.agecon.purdue.edu accessed 17-5-2017.

[3] Omoruyi, S. E. (2004). *The Nigerian Debt Crisis and Debt Management Strategies.* Lagos, Office of the Debt Management Department, Central Bank of Nigeria.

[4] Debt Management Office. (2012). *Nigeria's External Debt Profile*. Abuja: Government Press.

borrowing at higher interest rates. This will in turn lead to high interest payments of external debt and as such rapid debt accumulation

- **Poor lending and inefficient loan utilization**: Also the government of Nigeria rather than invest into capital projects that will lead to the development of the economy and also amortize the nation's debts poorly utilized the foreign loans and as such led to continuous borrowing.[1]
- **Poor debt management practices**: The lack of understanding of the nature, structure and magnitude of external debt has not allowed for the Nigerian economy to effectively meet her debt service obligations and manage the debt stock appropriately.
- **Accumulation of arrears and penalties**: Also accumulated of trade arrears and penalties with foreign nations due to high interest payments or external debt has led to the astronomical rise in Nigeria's external debt.
- **Huge Budget Deficit**
  The huge budget deficit that are internally sourced and paid through borrowing increases the debt stock[2]. e.g The 2017 federal government budget of N7,441 trillion signed into law by Acting President, Prof. Yemi Osinbajo, on June 12, 2017 has a revenue projection of N5.08 trillion, thus leaving a fiscal deficit of N2.36 trillion to be financed largely by borrowing.[3]
- **Heavy Dependence on Oil Revenue**
  Heavy dependence on oil revenue was another cause of the debt crisis. This became particularly gruesome when expected revenue from oil fail in 80's and government decided to go borrowing.[4]
- **Reckless Contraction of Loans**
  Another cause of debt crisis is the reckless contraction of loans, which often times were not self financing. They were contracted for political and personal gains. Needless to say, they couldn't be paid as at when due.[5]
- **The practice of Mono Economy**
  The poor performance of the non-oil export, particularly the agricultural sector also indirectly contributed to Nigeria's debt crisis. With the misfortunes of the oil sector, had the non-oil sector compensated for the subsequent short-fall in revenue projections, the country probably would not have contracted the kind of loan she resorted to externally.
- **External Factors**
  The colonialists, since the era of imperialism have tailed the economies of Nigeria to be externally oriented. As a result of this, Nigeria is incapable of internally generating her financial resources essential for overcoming backwardness and guarantee sustainable development.

## 6. External Debt Management in Nigeria

Prior to year 2000, the task of external debt management in Nigeria was coordinated by the Central Bank of Nigeria. However, establishment of the Debt Management Office in the year 2000 saw the role of external debt management and indeed other debts transferred, to be managed and coordinated Nigerian's debt which was hitherto done by myriads of establishment in an uncoordinated fashion. External debt management is the process of providing for payment of interests, arranging the refinancing of bonds and debts that are maturing.

### 6.1 Nigeria's External Debt Management Strategies[6]

Nigeria has managed its external debt in the following ways:

**(1) Placing outright embargo on new loans**: the imposition was to check the escalation of the level of total debt stock and minimize the problems of additional debt burden. The policy was applied by intermittently fixing a ceiling to what the government both state and federal government can borrow at any given period. For instance in 1984 state governments were banned outrightly from contracting external debts. Occasionally too, the federal government has fixed the maximum level of debt commitment for the tiers of government.

**(2) Limit on Debt Service Payments:** This measure involves setting aside a proportion of export earnings to meet debt service obligation to allow for internal development. In 1980 for instance the state government were directed

[1] Aluko, F. and Arowolo, D. (2010)."Foreign Aid, the Third World Debt Crisis and the Implication for Economic Development: The Nigerian experience" *African Journal of Political Science and International Relations* 4(4), 120-127.
[2] Developing country like Nigeria has become over dependent on external borrowing, See Sogo-Temi ,J.S (1999). "Indebtedness and Nigeria's Development" in Saliu, H.A (ed*). Issues in Contemporary Political Economy of Nigeria ,* Ilorin: Sally and Associates.
[3] See generally vanguard Newspaper, July 1, 2017
[4] ibid
[5] Omoruyi, S. E. (2004). *The Nigerian Debt Crisis and Debt Management Strategies.* Lagos, Office of the Debt Management Department, Central Bank of Nigeria
[6] Olukoshi op.cit. pp 3-10

limit its debt servicing to a maximum of 10% of its total revenue and the federal government 30%.
**(3) Debt Restructuring**; the practice entails conversion of an existing debt into another category of debt done through refinancing, buy back, issuance of collaterized bonds and the provision of new money.
i. **Debt Refinancing-** this strategy proffers an arrangement in the the government procures new loan (especially short term trade debt) to pay-off an existing debt. However, a negotiation is held with the new creditor with repayment specified in the new agreement. The first refinancing arrangement was in july, 1983 preceeded by another one in september the same year during which US$2.1billion, with applicable interest rate of 1.5% above the London Inter Bank Offer Rate trade arrears were refinanced. By 1986, Nigeria paid off and exited the debt and has continued to utilise the tool to reduce its debt burden.
ii. **Debt Resheduling-** this measure involves changing of maturity structure of the debt. Debt is usually spread over .**Debt Resheduling-** this measure involves changing of maturity structure of the debt. Debt is usually spread over a longer period until it is financially liquidated.
iii. **Debt buy back, collaterization and new money option**- the buy back arrangement implies the offer of substantial discount to pay off an existing debt. On the huge debt stock, saying: "Between 2004 and 2006, the implementation of the exit from Paris Club was completed such that Nigeria was forgiven 60 per cent of the $30 billion foreign external debt, and $18 billion was written off while $12 billion was paid and so we completely exited.
**(4). Debt Conversion:** Debt conversion as a mechanism was introduced in July.1988 and entails the exchange of monetary instruments like promisory notes for tangible assets and other financial instruments. It is a mechanism for reducing a country's debt burden by changing the character of the debt. It can be in the form of debt for equity or debt for cash. The country through this process either sold its external debt instument for as domestic debt or equity participation in domestic enterprises. A whooping sum of USD908.3 million debt relieve occurred between 1988–1995. Within the period Nigeria had a discount of USD423.6 million. It also received a commission of USD11.6 million

## 7. Debt Relief and Nigeria's Development[1]

It is believed that debt relief would engender increased saving and investment in the domestic economy. This has the potential to engineer growth and reduce poverty, capable of leading to improved conditions of living. This is especially so if the proceeds from debt relief are well managed in the overall interest of the Nigerian economy. While this positive thinking has some merit, there is also the observation that the much touted debt relief has been selective and discriminatory. For instance, under the various debt deals, different conditions apply to different countries with respect to qualification and classification. To make matters worse, these conditions were drawn up solely by the Paris Club and related agencies acting according to the interests of the West, and particularly the United States . The paris club rescheduling , reduced the debt service due to Nigeria in 2001 from US$5.3 billion to US$ 3.2. billion.

Indeed, the assumed tremendous prospects of Africa's development under the new debt relief are too optimistic. For instance, virtually all the measures that have been devised by the World Bank and International Monetry Fund for the management of Africa's external debt have been predicated upon such conditions as political and economic liberalization, deregulation, privatization and devaluation. To be sure, debt relief, be it partial or total, has the potential to halt negative movement of capital flight in Africa. As studies have shown, there is a positive correlation between external debt and capital flight, with negative consequences for economic growth and development.

## 8. Legal and Institutional Frameworks for Debt Management in Nigeria

Prior to the establishment of the Debt Management (DMO) in 2000, the institutional framework for managing the country's debt was very weak. Obasanjo[2] cited the following challenges facing Debt management in Nigeria: The lack of coordination among the various agencies involved in contracting and managing public debt; A weak and unreliable database; The lack of skilled debt managers; Weak institutional arrangements for managing domestic and sub-national debt; A loose legal framework.

Below is the summary of the legal and institutional arrangements for public debt management in Nigeria which served to overcome the weakness above.

### 8.1 Legal Framework

According to NDMF (2000)[3] the extant legal framework for managing debt includes, among others, the following:

[1] See generally Madavo C. (2003) " Debt Relief: What Has Been achieved? *What Needs to be Done" in The Debt Trap in Nigeria: Towards a Sustainable Debt Strategy*" Okonjo- Iweala,N. Soludo c. and Muhtar M. edited pp 91-104.
[2] President and commander in chief of Nigeria's Armed forces as at year 2000 when DMO, Debt management Office, was established
[3] *The Nigerian Debt Crisis and Debt Management Strategies.* Lagos, Office 2000

**The Constitution of the Federal Republic of Nigeria:** This vests exclusively in the National Assembly (NASS) the power to make laws to regulate both external and domestic borrowing for the federation- Federal, State and Local Governments. The Second Schedule, Exclusive Legislative list, items 7 and 50 confer this authority on the NASS. Pursuant to its constitutional authority and mandate, the National Assembly enacted the Debt Management Office (Establishment) Act, 2003. Act no.18 and Fiscal Responsibility Act to regulate external and domestic debt at the Federal, State and Local Government Levels.

**The Debt Management Office (DMO) (Establishment) Act, 2003, Act no 18**: This establishes the DMO as an autonomous body charged with the responsibility of managing the country's debt. Among other things, it empowers the DMO to:

i. advise government on how to fund its financing gap;
ii. issue guidelines on public borrowing by Federal and sub-national governments, their agencies and public enterprises; and,
iii. determine the level of Federal Government's contingent liabilities that may result in extra-budgetary spending and recommend appropriate action for dealing with them.

**The Local Loans (Registered Stock and Securities Act):** This act provides for the creation and issue of registered stock. Government Promissory Notes and Bearer Bonds, for the purposes of raising loans in Nigeria.

**The Treasury Bills Act**: This empowers the Minister of Finance to issue Treasury Bills, through the Central Bank of Nigeria (CBN) as his agent, to the limit of 150 percent of the estimated revenue of the Federal Government and gross revenues of the State for the current year. The Consolidated Revenues Fund is to be credited with the proceeds of this issuance from which the Minister is allowed to pay out any charges and expenses arising thereof**.**

**The Treasury Certificate Act**: By this Act the FGN can raise short term loans of not more than two (2) years tenor by issuance of Treasury Certificates, whose proceeds may be on-lent to states.

**The Government Promissory Notes ACT, CAP 164**: A Government Promissory Note is a promissory note issued under Section 3 of the Government Promissory Act. Given the definition under Section 3, Government Promissory Notes are securities issued whenever authority is given to raise any sum of money by loan or repay any loan raised by the Federal Government.

**Investment and Securities Act No 29 2007 (ISA)**: This empowers the securities and Exchange Commission (SEC) to regulate borrowing from the domestic capital market by Federal, States, local governments and other government agencies. This Act makes provisions for borrowing from the Nigerian Capital Market.

**Central Bank of Nigeria (CBN) Act 2007**: This Act enables the CBN among other things to discount or rediscount project-tied bonds issued by State Governments, Local Governments and corporations owned by the FGN or State Governments, being bonds which have been publicly offered for sale and with maturity not exceeding three years, and grant advances to the Federal Government.

**Fiscal Responsibility Act 2007**: This imposes fiscal discipline on the Federal and to some extent the State Governments, and their agencies and particularly for the States in respect of borrowing, debt management and oil-based fiscal rule within a medium-term expenditure framework. Also, the States have committed to adopting similar legislation.

## 8.2 Institutional Arrangement for Debt Management[1]

### The Debt Management Office

DMO Act (2003) observes that the government established a Debt Management Office in 2000 with the mandate of managing the country's external and domestic debt. Part III, Section 6 of the Debt Management (Established) Act 2003, specifies that the DMO shall:

i. Maintain a reliable database of all loans taken or guaranteed by the Federal or State Governments or any of the agencies;
ii. Prepare and submit to the Federal Government a forecast of loan service obligations for each financial years;
iii. Prepare and implement a plan for the efficient management of Nigeria's external and domestic debt obligations at sustainable levels compatible with desired economic activities for growth and development and participate in negotiations aimed at realizing these objectives; Set guidelines for managing Federal Government financial risks and currency exposure with respect to all loans;
iv. Advise the Minister on the term and conditions on which monies, whether in the currency of Nigeria or in any other currency, are to be borrowed;
v. Submit to the Federal Government for consideration in the annual budget, a forecast of borrowing capacity in local and foreign currencies; and,
vi. Prepare a schedule of any other Federal Government obligations such as trade debts and other

[1] See generally Okonjo Iweala (2003) " Managing Nigeria's Debt : Institutional and Governance Aspects" in *The Debt Trap in Nigeria: Towards a Sustainable Debt Strategy,* Okonjo- Iweala,N. Soludo c. and Muhtar M. edited pp 167-194.

contingent liabilities, both explicit and implicit and provide advice on policies and procedures for their management. Moreover, the Act empowers the Debt Management Office to issue periodic guidelines to regulate the conduct of external and domestic borrowing as approved by the Federal Executive Council (FEC) and the National Assembly.

**Debt Management Related Committees**[1]

In addition to the establishment of the DMO, the government has constituted multi-agency advisory committees, namely:

1. **Monetary and Fiscal Policy Coordinating Committee (MFPCC)**: To clarify and harmonize the objectives of public debt strategies, fiscal and monetary policies, among other things. Members of the Committee are drawn from DMO[2], MOF[3], CBN[4], Budget Office, OAGF[5] and NPC[6].
2. **Bond Market Steering Committee**: To get the buy-in of all relevant stakeholders and to speedily resolve any conflicting policy issues that may hinder the orderly development of the Nigerian bond market. Members of the committee are drawn from DMO, SEC, NSE, CBN, PENCOM, and the organized private sector.
3. **Sub-national Steering Committee**: To streamline the management of Nigeria's domestic debts, make fiscal federalism effective, and ensure full involvement of States in the management of sub-national debt, the maintenance of a reliable database and design of borrowing guidelines. Members of the Committee are drawn from the six geopolitical zones, OAGF, FMF, CBN, and DMO. A representative of the World Bank serves on the Committee on an advisory basis.
4. **Inter-Agency Relations**

In matters of policy, strategies and procedures for its operations, the DMO must obtain the approval of the Board, whilst the approval of the National Assembly (NASS) must be obtained for the negotiation and acceptance of external loans and the issuance of guarantees. DMO must also the approval of the Federal Executive Council (FEC) with respect to guidelines drafted for its procedures and strategies. National Planning Commission (NPC) by mandate is responsible for managing grants from development partners. To enable the government have a holistic view of capital flows, DMO liaises closely with the NPC to obtain grant data.

The DMO collaborates with other government agencies for various activities, including the conduct of Debt Sustainability Analyses (DSAs), debt servicing and settlement and, as mentioned above.

## 9. Challenges of Nigeria's External Debt.

Nigeria, haven wasted all the borrowed funds and having nothing to show for it has woken up to unending knocks of the creditors. Unfortunately, ability to pay is close to zero. This becomes more pathetic when it can be seen that Nigeria is now called upon to pay when the economy is in a depressed state. More so, the borrowed funds are embarked on ill-conceived projects which are equally badly implemented. Misdirected economic policies pursued since the buoyancy of the oil market which resulted in an outright negligence over the non-oil sector of the economy especially agriculture has also been an issue.

In essence, what matters most is not the amount of the foreign loans but the ways and manner the loans are used in development process. Because these loans were used for current consumption, they had minimal impact on economic growth. Had it been the borrowed fund was rationally invested into productive ventures, it would have contributed positively to real growth and enhance the productive capacity of the economy Misappropriation and mismanagement of foreign loans has been a major issue confronting external debts management in Nigeria. Misapplication of debts as most times loans are not deployed to execute projects that engenders growth and development of the real sector for which they were meant for.

The primary burden of Nigeria's debt is then shifted into the future thereby regarding economic growth. The rate of investment tends to be low and unemployment rate becomes high because of our huge public debt. Furthermore, the country's reputation is tarnished and the developed nations are no longer confident in our economy. This rise to reduction in the flow of foreign investment to Nigeria could have profound challenges for the economic development prospect of the nation. With the oil glut and reduced revenue, it is expected that Nigeria's external debt liability will mearge and the Nigeria economy will then be unstable. The debt crisis if not well managed, will lead to liquidity crisis and foreign exchange crisis which will retard the rate of economic growth and development in Nigeria and which is already the situation.

A major challenge of Nigeria's debt problem is the Debt position of her gap as it keeps widening and debt cumulating side by side perpetual accumulation of interest rates. That notwithstanding, Nigeria has maintained a

[1] Okonjo –Iweala Op.cit.
[2] Debt Management Office.
[3] Ministry of Finance.
[4] Central Bank of Nigeria
[5] Office of the Accountant General of the Federation
[6] National Pension Commission

 

constant flow of net import and this is why the country is compelled to continue to borrow increasing amount of capital to develop her economy. In an economy of Nigeria where debt repayment and servicing has eaten up what is meant for other sectors for instance, economic benefit which would have been channeled to social profitable investment outlet were diverted into debt servicing. Debt therefore has constituted a big challenge to the developmental process especially within the context of a dependent free market formation .This is caused by the Federal Government Embarking on Unprofitable projects like, the Federal capital territory, the establishment and of the different River Basin Authorities, Rural Development Authorities. This is against the economic idea of investing in productive ventures like iron and steel industries, Agricultural sector, manufacturing industries, etc from the fund borrowed externally.

As indicated by the Federal Ministry of Finance (FMF, 1996)[1], as many as eighteen (18) of the projects on which Nigeria incurred her huge external debt were classified as "*failed projects"* because they either had no site or were never executed to completion. The total amount borrowed for the failed projects according to FMF (1996) was of the equivalent of US$836.17million. Federal ministry of finance reappraised the projects in 1997 with a view to rescuing some of them from being a total loss. Thus by way of providing failed projects facts in specific form and for the purpose of objectivity, the government reviewed all the project financed from the Paris club loans in the were either uncompleted or partially completed, and where they have been completed, they are not functioning. Such (prominent) projects according to FMF (1998) include:
(i) Ajaukuta Steel Mill;
(ii) Katsina Steel Mill
(iii) Jos Steel Company
(iv) Oshogbo Steel Company
(v) Delta Steel Company
(vi) Iwopin Paper Mill
(vii) Adiyan Water Project; and
(viii) National Identity Card Project, among others.

The result of the above scenario according to the Federal Ministry of Finance (FMF) is that Nigeria has not derived expected economic and social benefits commensurate with the loans, as the capacity buildings efforts

Incessant rescheduling of debt rather than outright cancellation has compounded the problem as it leads to increase in accumulated principal and interests that are usually capitalized to increase the debt overhang. Weak institutional and legal/ administrative capacity to design and manage public resources is also identified as central to the economic mismanagement and to the debt overhang problem itself. The situation is made more difficult in a decentralized revenue-sharing environment where the state and local government structures and framework are even weaker than at the federal level.

## 10. Conclusion and Recommendations

External debts and management issues in developing countries have been challenging as it has been exerting especially for countries like Nigeria. Nigeria has in the last decade struggled with managing its external debts but more often than not the country still see itself trapped in the web of very heavy external debts that try to strangle key economic variables of the country instead of boosting the economy of the country. The country will do more by ensuring that its external debts are managed and directed towards well articulated projects that could engender an encompassing and sustainable economic growth and development.

This paper therefore offers recommendations which are given as the prospects on how external debts accumulations could be managed to ensure better economic performance below.

External debts should be tied to projects that are self-sustaining/liquidating. Debts must be contracted to finance projects that can stimulate the real sector.

The key macroeconomic variables such as GDP, Capital Expenditure, External Reserve and even Exports should always be benchmarked against external debts strategies being implemented.

Debts negotiations should abhor capitalization/compounding of interests. Nigeria should seek multi-year rescheduling rather than year by year basis. Furthermore, Nigeria should pursue vigorously all the options for debt relief, including debt cancelation. What Nigeria needs is a Paris Club "plus", where the "plus" refers to addressing the overhang debt, and if necessary by further restructuring and perhaps bringing relief to Nigerian debt securely to a sustainable level.

Nigeria should diversify its economy from a mono-economy dependent on oil to encourage other productive sectors and avoid loans that are tied to market-driven interest rate but rather should opt for fixed interest rate. Nigeria's economy needs to be diversified away from oil dependency.

Nigeria should devote adequate funds for debt servicing. This would enable the country to accommodate the creditors' requirements. Spending of external credits should be strictly on productive self-liquidating projects in

[1] Report of the Federal Ministry of Finance,1996. Federal ministry of Finance is a senior Cabinet in the Nigerian Executive Council.

 

order to grow the real sector while federating units should have a well spelt out policy documents/guidelines to coordinate issues on external debts.

There is also the need to strengthen and reform Nigeria's Institutional /legal and administrative framework for public resource management. This is to ensure effective and efficient utilization of present and future public resources, to prevent the waste and inefficiencies of the past. This institutional re-engineering would ensure probity in public resource use, due diligence, transparency, with sanctions when standards are not met. The Debt Management Office Act is a step towards this but needs to be better strengthened and well implemented. The DMO office should be strengthened with Office, human and financial resources and an appropriate incentive framework to carry out its mandate. Political commitment to sound debt management, especially adhering to legal and accountability frameworks, will be necessary to support DMO.

There is the need for Nigeria to formulate a national debt policy, together with a debt management strategy, and both based on sound analysis. The debt policy should be validated through consultations with civil society. Participation and monitoring of civil societies in monitoring the implementation of debt policy and management is very important. This needs to extend to independent national audit offices and structures for consultations on new borrowing and public spending. Government should vigorously pursue economic public reforms as a requirement of donors for debt reduction and as fundamental national imperative. The reforms should address poor state of infrastructure, enforce the rule of law, and minimize uncertainties and risks associate with the business environment. A major goal of the reform is to target return of flight capital and to discourage transfer of domestic savings abroad.

Better debt management institutions and arrangement should also be accompanied by better coordination among the many government agencies dealing with the fiscal accounts and with monetary policy. This is important to ensure coherence and consistency in monetary and fiscal policy, and their impact in overall economic management. There is also a need for appropriate mechanisms to be put in place to check the ballooning of domestic debt through federal government borrowing from the Central Bank of Nigeria, and especially through growing borrowing and spending states and local governments. Such domestic borrowing has implications for the ability of the federal government to maintain macroeconomic stability and should be checked.

Nigerian policy makers should promote reform of international financial systems and urge countries to review and reform domestic legislations that impedes the return of stolen funds from developing countries. Such review and reform should also promote disclosure and transparency in international financial flows and the enactment of international legislation to govern transfer of corrupt money, along with appropriate penalties for individuals involved, and for governments that retain such monies. Such review and reform should further support an international /adjudication system to settle disputes between donors/creditors and debt countries.

There is also the need for the international community to be more proactive in assisting Nigeria to exit the debt trap and so that Nigeria can focus its resource on promoting economic growth and on providing the enabling environment for its large population to exit from poverty.

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