

The Loan Contraction Process in Africa



The Case of the Democratic Republic of Congo



African Forum and Network
on Debt and Development

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African Forum and Network on Debt and Development

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About AFRODAD

AFRODAD Vision

AFRODAD aspires for an equitable and sustainable development process leading to a prosperous Africa.

AFRODAD Mission

To secure policies that will redress the African debt crisis based on a human rights value system.

AFRODAD Objectives include the following:

- 1 To enhance efficient and effective management and use of resources by African governments;
- 2 To secure a paradigm shift in the international socio-economic and political world order to a development process that addresses the needs and aspirations of the majority of the people in the world.
- 3 To facilitate dialogue between civil society and governments on issues related to Debt and development in Africa and elsewhere.

From the vision and the mission statements and from our objectives, it is clear that the Debt crisis, apart from being a political, economic and structural issue, has an intrinsic link to human rights. This forms the guiding philosophy for our work on Debt and the need to have African external debts cancelled for poverty eradication and attainment of social and economic justice. Furthermore, the principle of equity must of necessity apply and in this regard, responsibility of creditors and debtors in the debt crisis should be acknowledged and assumed by the parties. When this is not done, it is a reflection of failure of governance mechanisms at the global level that protect the interests of the weaker nations. The Transparent Arbitration mechanism proposed by AFRODAD as one way of dealing with the debt crisis finds a fundamental basis in this respect.

AFRODAD aspires for an African and global society that is just (equal access to and fair distribution of resources), respects human rights and promotes popular participation as a fundamental right of citizens (Arusha Declaration of 1980). In this light, African society should have the space in the global development arena to generate its own solutions, uphold good values that ensure that its development process is owned and driven by its people and not dominated by markets/profits and international financial institutions.

AFRODAD is governed by a Board of seven people from the five regions of Africa, namely East, Central, West, Southern and the North. The Board meets twice a year. The Secretariat, based in Harare, Zimbabwe, has a staff compliment of Seven programme and five support staff.

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The central financial support of Southern Africa Trust and Oxfam (Netherlands) was invaluable to the project. We are also indebted to our colleagues, Baudouin Hamuli, Director of CENADEP in DRC, Mandlenkosi Hadebe and Taurai Chiraerae from the AFRODAD secrétariat for the time and effort they put in making this study and publication a reality. Last but not least many thanks to our colleagues, we can not all acknowledge by name but whose input into the national research validation workshop remain vital to this output.

Preface

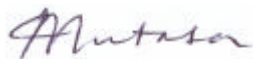
The 2002 Monterrey Financing for Development Conference established a consensus among the international development community that 'sustainable foreign borrowing' will remain an important source of capital to finance private and public investment in developing and least developed countries for the foreseeable future.

Research findings show that governments and international financial institutions often negotiate and sign loan agreements in a non-transparent and non-accountable way. In some cases the government may overrule their parliament's objections to a loan, and often parliaments end up rubber-stamping new lending agreements without being properly involved in the decision-making process. On the other hand, civil society organizations have played a very limited role at any stage of lending agreements. There is no formal legislation to involve them in the loan cycle, and they lack the resources and skills to research, advocate on and monitor government loans.

Citizens' groups need to be allowed to scrutinize the process by which aid-recipient countries agree to take on the terms and conditions of a loan. This should help to avoid lending and borrowing mistakes, which in the past have led to the build-up of unsustainable debt that now has to be paid off at the cost of financing the MDGs. Citizens' organizations and the bodies that represent the interests of different groups of poor people in the formal democratic process need to be informed about the purpose of every project and programme financed by new loans, including the associated risks of the loan in the light of a country's existing unpaid loans and economic indicators. Public debate should inform the final decision of governments and creditors on the content of development projects and programmes, as well as the most appropriate form of finance. The MDG targets, which may differ from country to country, provide a useful political tool that allows citizens to hold their governments and creditor institutions to account.

The Democratic Republic of Congo (DRC) is a post-conflict society, having only recently held successful presidential elections since the overthrow of Mobutu Sese Seko in 1996. DRC (which was then called Zaire) experienced 33 years of Mobutu's rule that meant the absence of an institutionalized and structured way of handling its political and economic matters including loan contraction and debt management processes. Mobutu individualized state apparatus and consequently procured loans for selfish gains without been accountable to parliament. He also worked with western governments and the United States during the cold war era to bloc the advancement of socialism in the central African region, making it possible for him to indulge in irresponsible lending and putting up projects not necessarily required or suitable for his country. Such unfinished or elephant projects include the Inga dam, Cité de la voix du Zaire (radio and television tower), the Sozacom tower among many others. Mobutu himself is said to have become three times richer than the country he was heading. He could give personal gifts out of state coffers to his western friends in Europe or America despite a background of massive poverty and hunger among his own people of the then Zaire.

This study analyses the loan contraction process in the post-conflict Democratic Republic of Congo and its effectiveness as the country embarks on programmes to rebuild its institutions, reduce corruption, reduce poverty and enhance economic development. It provides an assessment of the extent to which the loans extended to the DRC by the international financial institutions (IFIs) and bilateral donors serve their basic needs and reflect their development priorities. There is an overview of the DRC's debt position, a description of the legal framework and the institutions involved in the loan contraction process, an assessment of the role that the main lenders play, and an evaluation as to the progress towards DRC's development targets, namely the Millennium Development Goals.



Charles Mutasa

Exécutive Director

AFRODAD

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List of Acronyms

ADB	African Development Bank
AIDS	Acquired Immune Deficiency Syndrome
DRC	Democratic Republic of Congo
FOEXD	Forum on External Debt and Development of Congo
GDP	Gross Domestic Product
HIPC	Heavily Indebted Poor Countries
IFI	International Financial Institutions
IMF	International Monetary Fund
MDG	Millennium Development Goals
MPURR	Multi-Sectoral Program of Urgent Rehabilitation and Reconstruction
PRGF	Poverty Reduction Growth Facility
PRSP	Poverty Reduction Strategy Paper
UN	United Nations
UNDP	United Nations Development Project
WB	World Bank

1.0 Introduction

Over the past few years, several African countries have benefited from the Highly Indebted Poor Countries (HIPC) Initiative, which has resulted in the cancellation of the bulk of their bilateral and multilateral debt. But some countries emerging from the debt crisis after the debt cancellation have soon found themselves with rising levels of new debt, which are fast becoming unsustainable. The rising levels of these new debts make it crucial for developing countries to come up with strategies that will prevent them from sliding back into the debt trap.

Most developing countries fell into the debt trap initially due to a combination of factors that included poor internal governance and accountability as well as the policies of the donors, who encouraged borrowing for projects that were ill-conceived and offered no scope to generate the money required to service the loans. Most governments also did not follow formal procedures for borrowing and often disregarded or ignored their own institutions, such as parliament and the central banks, whose jobs it was to appraise the projects for which the money was being borrowed and to satisfy the requirement that the country would be able to repay. They were also to ensure that the money was being borrowed for priority projects as identified in their national plans.

DRC is potentially one of the richest countries in Africa, with rich mineral resources and timber (75% of the country is forested). It is however one of the poorest. The tense political situation, corruption and smuggling, have resulted in a shortage of development capital that has stifled the development of the mining and other sectors. After independence in 1960, the long presidency of Mobutu Sese Seko made the newly named Zaire notorious for cronyism and corruption. When President Mobutu came into office in 1965, a sustained period of institutionalised corruption and misappropriation of state resources began. Large proportions of the revenues from state-owned companies, such as the copper and cobalt company Gécamines, went not to the state treasury but straight into the pockets of President Mobutu and his closest allies.

Due to the immense natural resources in DRC, various foreign powers as well as internal powers have sought to gain an advantage. The wars fought during the last few years in the DRC, particularly the 1996-1997 war have been deadly and devastating. The socio-economic situation has deteriorated considerably with natural resources pillaged or exploited illegally and consequently sanitary, social, road and other infrastructures are lacking or very poor. It is estimated in the last 10 years that more than 3 million people have died either directly from warfare or from its effects. Tens of thousands of women and children are reported to have been raped by soldiers. For many years the authority of the central government does not extend more than a few hundred kilometres from the capital, Kinshasa.

When Congolese President Laurent Kabila came to power in May 1997, toppling Marshall Mobutu, with the aid of Rwanda, Uganda, Angola, Burundi and Eritrea, it was hoped that a revival would be seen in the region. Instead, the situation deteriorated. Kabila, also backed by the US, had been accused by rebels (made up of Congolese soldiers, Congolese Tutsi Banyamulenge, Rwandan, Ugandan and some Burundian government troops) of turning into a dictator, of mismanagement, corruption and supporting various paramilitary groups who oppose his former allies. As the conflict had raged on, rebels controlled about a third of the entire country (the eastern parts). Laurent Kabila had received support from Angolan, Zimbabwean and Namibian troops. Despite the Lusaka peace agreement signed in 1999, there was still fighting going on and the peace was fragile. Up to the assassination of Laurent Kabila in January 2001, Angola, Zimbabwe, and Namibia supported the Congolese government, while the rebels were backed by the governments of Uganda, Rwanda, and Burundi. When Laurent Kabila was killed on January 16, 2001 and his son Joseph Kabila was sworn in as the new President of the DRC.

In light of the above, AFRODAD commissioned a study to examine the loan contraction and management process in the DRC and make recommendations to the government of DRC, the IMF and World Bank on improving transparency, accountability and participation in the debt management process.

1.2 Purpose of Study

The study is premised on the understanding that the procurement, utilization and management of public loans and debts are a national and global issue and, therefore, should be seen to be transparent, accountable, participatory and inclusive. The processes of loan procurement and debt management require legitimacy and systematic planning to be sustainable. By making loans sustainable, governments will have extra revenue to support their social services and goods for development and enhance their people's welfare and reduce poverty. This study constructs a framework for rationalisation of the loan contraction and debt management process in these terms.

1.3 Overall Objective

The purpose of the study was to critically examine the loan contraction and debt management process in Democratic Republic of Congo and make recommendations on improving transparency, accountability and participation of the processes.

Specific Objectives

The objectives of the study are to:

- Give a summary of the existing external loan agreements still being serviced by the government or recently contracted by the government.
- Outline the legal framework which regulates the government's lending practices.
- Examine the role of the IMF and World Bank and other major creditors/lenders' permanent representatives and missions in the Loan contraction process.
- Examine the role of civil society in the loan contraction and monitoring process.
- Give an example of a specific loan process.
- Critically evaluate the progress made by the country as a potential MDRI beneficiary.
- Give an assessment of the performance of government (i.e. a current status) in its responsibilities as a duty bearer to its citizens with particular regard to the attainment of the Millennium Development Goals in the country.

1.4 Methodology

Both primary and secondary sources of information were collected for the write up of this report. Primary data was gathered through interviews. Relevant government officials in the Ministry of Finance, the Debt office (OGEP) and the central bank of Democratic Republic of Congo were interviewed. Interviews were also held with the officials of donor institutions including the World Bank, as well as officials of Non-governmental organizations and Civil Society Organisations. As for secondary data, information on Democratic Republic of Congo debt was obtained from the Ministry of Finance. Relevant documents published by the government, donor institutions, and civil society organizations were studied and reviewed.

1.5 Overview of DRC's Debt Crisis

Since gaining independence from Belgium in 1964, the Democratic Republic of Congo treaded an economic path that brought it to the precipice as years of economic mismanagement, political instability, civil war and cold war politics took their toll. Although DRC's economy is dominated by the mining sector - copper, cobalt and diamonds But decades of mismanagement and corruption, together with the war, caused virtual economic collapse, it remains among the poorest of countries in the world; ranked 167 out of 175 countries by the UN in the Human Development Index.¹ GDP is lower now in real terms than at independence in 1960, having declined from US\$380 per capita to US\$240 in 1990 and is now US\$85 per in 2000 .

The DRC is the second largest country, to Sudan, in Sub-Saharan African.

¹UNDP (2003)

²Economist (2003)

³Boyce and Ndikumana (2003)

Some 45 years of bad governance, characterized by systematic looting of national resources by the regime of President Mobutu Sese Seko, followed by a protracted civil war, brought the country to its knees.

By the time Mobutu was ousted from power in 1997 he had accumulated personal wealth of between \$4 and \$10 billion, mostly held in Swiss bank accounts, while the country's external debt rose to over US\$14 billion.

Like other developing countries, the DRC had borrowed heavily from banks and governments in developed countries during the mineral price boom of the early 1970s. At the time, interest rates were much lower and the lenders were assured of repayment based on the prevailing mineral prices. But when mineral prices plummeted in the 1980s and as developed countries started to come out of the oil-crisis-induced recession, interest rates shot up and for many developing countries, their debt burden doubled or even quadrupled as a consequence.

The combined effect of the deterioration in the terms of trade and the rise of interest rates led to a debt crisis in DRC. It was unable to service its debt as the value of its exports fell, and the balance of payments became heavily tilted in favour of developed countries. According to

figures of the Public Debt Management Board, the DRC's public debt stock as of 31/12/2005, stood at US\$9.289 billion.

A portion of this debt stock, US\$145.2 million, was owed to former owners of properties that were transferred to the State. This was the "Zairianization" process of 1973 in which foreign-owned businesses were nationalised or distributed to the political elite. Asset-stripping and mismanagement ensued, and most of these companies later collapsed. By the late 1970s many had been privatised and although their former owners were invited to return, this policy had limited success. The debt resulting from the Zairianization process, initially a private debt, rose very high when the state assumed responsibility for it instead of forcing those who had benefited from the scheme to repay. Faced with the obligation to compensate the former estates owners, the state was compelled to sign memorandums of understanding with their respective countries of origin - Germany, Belgium, Greece and Portugal.

Mobutu built himself and the Zairian elite a life of opulence and corruption bolstered by an excessive desire to acquire as many material possessions as possible. Financial administration was marked by poor budgetary control, accompanied by widespread mismanagement and corruption. Loans contracted during his reign were neither recorded nor endorsed by parliament or any state institution. Much power was concentrated in Mobutu for whose favours various cliques engaged in struggles with each other. Corruption constituted an important means by which individual wants and needs were satisfied, it was a black market mode of conduct yet at odds with state rules and regulations. Although the programming of general policies should be the responsibility of the civil service, ministers worked out their own detailed programmes and supervised the execution of these programmes and carrying out functions that should properly be discharged by civil servants. External loans were the business of the politicians and not the bureaucrats. Politicians were basically accountable to none except Mobutu himself.

Loan contraction and procurement was the president's business. The vast central African country of Zaire was easily mortgaged by one man-Mobutu. Mobutu Sese Seko was portrayed as embodying the idea, dignity and sacredness of the state. His person as ruler and the state were intertwined to the extent that it was difficult to do imagine without the personal ruler, who is the pivot of state power, the commanding presence on the political stage. He ruled by his ability and skill (as well as the abilities of those he could convince to be his supporters), by his personal power and legitimacy, and not solely by the title of office he occupied and the constitution that defined it⁴.

**"Anything I say is law. Literally law. It is a fact in this country. Everything is my business. Everything - education, economy, agriculture and transport"⁵
Mobutu Sese Seko**

A great number of loans to DRC, initiated in the beginning of the 1970, under the spur of the World Bank, the IMF and massively followed by other public and private creditors were issued for projects that never went through a feasibility assessment or proper project planning. Thus, the majority of those projects failed, as they did not have development as their centre core but ideological inclinations.

⁴Jackson R.H. & Rosbeg C.G. (1982) Personal rule in Black Africa. Prince, Autocrat, Prophet & Tyrant, University of California Press, London.

⁵Crawford Young & Thomas Turner, 1985, The Rise and Decline of the Zairian State, Madison: University of Wisconsin, 1985, 387.

A number of causes have been attributed to the external debt in the DRC. Some of them include loans incurred during the colonial period to finance certain projects one of which is the famous 1949-1959 decade plan of Congo-Belge.

A number of loans were also incurred from German and Belgium for post-independence construction of schools. The country has also been affected by the oil crisis and petro-dollars of the 1970s that lead to the rise in interest rates that adversely affected most developing countries.

DRC is believed to have had the biggest rise in external debt since the introduction of Zairianisation/Mobutism, right to the demise of the Mobuto regime; that is 1975 to 1999. The country's first debt reschedule was in 1975, then it was rescheduled at least 9 times before 1999.

2.0 DRC's Current Debt Situation

Despite the country's vast potential, under both the Mobutu and Laurent Kabila regimes widespread corruption, economic controls, and the diversion of public resources for personal gain thwarted economic growth. The unrecorded and illicit transactions of Zaire's unofficial economy were estimated in the early 1990s to be three times the size of official GDP. Records do show that the DRC owes four major foreign creditors - the Paris Club, the London Group, the Kinshasa Club and multilateral financial institutions.

2.1. The Paris Club

The Paris Club is comprised of OECD member countries, which include Germany, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Norway, Netherlands Japan, Russia, Sweden, Switzerland, the United States and the United Kingdom. Occasionally other public creditors participate in its debt rescheduling meetings among them developing countries that have lent money to the DRC. As of the 31st December 2005, the DRC owed US\$5 106.9 million to the members of the Paris Club. Table 1 shows the different categories of the DRC's external debt.

In September 2002, the Paris Club announced the cancellation of DRC debts amounting to US\$ 4.464 million and the rescheduling of US\$4.340 million. The Paris Club wrote off US\$9.090 million of the DRC's debt, leaving only US\$380 million that the country had to repay over a period of three years. The timing of the repayment however was unrealistic as the country was at war at the time and the demands of financing the war made it impossible to meet the US\$10 million a month in repayments that was expected over the three years at a time when total government revenue was barely above US\$700 million a year.

Table 1 Public debt stock as at 31st December 2005 (in US \$)

	Outstanding Debt	Arrears on the principal	Arrears on interest	Total arrears	Debt Stock
Kinshasa Club	162.797.387,26	200.380.960,42	108.418.423,56	308.799.383,98	471.596.771,24
London Group	28.570.000,00	0	0	0	28.570.000,00
Paris Club	5.106.998.795,27	-	-	-	5.106.998.795,27
Multilateral Institutions	3.294.463.942,10	1.154.979,90	1.781.321,31	2.936.301,21	3.297.400.242,31
Debt born out of Zairianisation	0	140.330.000,00	4.860.000,00	145.190.000,00	145.190.000,00
Grand total	8.592.830.124,63	341.865.940,32	115.059.744,87	456.925.685,19	9.049.755.809,82

2.2 The London Group

The London Group is made up of a consortium of bank creditors who lend cash or finance commercial contracts on behalf of the Republic. It is made up of 30 banks of which the Bank of Tokyo is the standard-bearer. Due to difficulties brought about by debt servicing, the DRC was forced to sign a specific agreement with its creditors for debt consolidation of what it owed the London Group. This agreement signed with the bank consortium was one of the worst that the Republic had ever gotten into, since it contained difficult clauses with which the government had to comply. Among these included the restructuring of US\$402 million of debt. Due to variable interest rates, the penalties imposed and the principle of compounding interest, the repayment became usurious.

The DRC resorted to seeking the redemption of public debts on the secondary market by effecting new borrowings amounting to US\$72 million. Following the disintegration of the Steering Committee in charge of managing and promoting mutual understanding and discipline in the consortium of creditors financial institutions of the Republic, the DRC is facing more problems with the London Group which feels that the country is not paying sufficient attention to servicing its debt but is giving preference to the Paris Club and to multilateral financial institutions.

2.3 Debt to Multilateral Institutions

The role of the IMF and the Bank in supporting Mobuto has, like the detailing of Mobuto's violations of human rights, often been reported on before. These two Bretton Wood institutions became accomplices of extortion against human, social and cultural rights by sponsoring a tyrannical regime that was sustained by the capitalist world against the people's will. Despite the Blumenthal report of 1982 that exposed how the two institution's loans were looted by Mobuto and his cronies, they continued to lend money to Mobuto's regime. A practice that is contrary to the strictness they observe elsewhere in issuing out loans.

The DRC's debt to the multilateral lending institutions increased significantly in the 1980s when the World Bank financed projects in various sectors through the IBRD and IDA. Table 2 shows the debt owed to multilateral institutions by the DRC as of 31st December 2005.

Table 2 DRC's Multilateral Debt

DRC's debt to multilateral institutions	
Lending Institution	US\$ mil
African Development Bank	969.9
European Investment Bank	81.9
BADEA	199
Great Lakes countries Development Bank	3.4
European Union	15.2
African Development Fund	278.2
European Development Fund	2.9
International Fund for Agricultural Development	30.1
IDA	1242.1
International Finance Corporation	9.3

In 1998, the DRC repaid close to US\$2 million to the IMF. In 2002 the government repaid a total of US\$32.2 millions - US\$8 million to the London Group and US\$24.2 million to multilateral financial Institutions.

2.4 The Kinshasa Club

Unlike the Paris or London Clubs, the Kinshasa Club is not a consortium of lenders but an accounting syndicate of the Public Debt Management Board set up purely to manage debt and keep tab of the amounts owed and of the repayments. The Club manages all debts that fall outside the Paris and London Clubs and debt from the multilateral institutions. Debt that falls under this category includes private non-guaranteed loans and loans with various banking institutions as well as loans from countries, who are not members of the Paris Club. As at 31st December 2005, the DRC owed the Kinshasa Club US\$471.5 million.

The case of DRC is unique in that a large part of its existing debt stock was undertaken by the dictator, Sese Seko. However, its inability to service that debt was due to both a civil war from 1996 to 2001 and a regional conflict.⁶

The greater percentage of Congolese debt is bilateral. Table 3 lists the country's external debt stock. The share of the Paris Club is 56%, while that of multilateral institutions is 36% and only 0.3% for the London Group. Unlike in 1997 when the DRC did not service its debt from June to August, in August 1998, the government paid US\$2 million to the IMF, a preferred creditor, in line with the Government's commitment to pay US\$500 000 every month. The payments were however suspended at the outbreak of the war.

⁶In all, between 1970 - 1994, DRC borrowed over US\$9 billion, with arrears accounting for 70% of the total.

Table 3 DRC's external Debt stock as of 31/12/06

	Outstanding debt excluding arrears	Stock of arrears on principal	Stock of interest on arrears	Total arrears	Outstanding debt including arrears
EDF	2.902.441,58				2.902.441,58
ADF	30.122.340,45				30.122.340,45
IDA	1.876.311.395,73				1.876.311.395,73
IDA-UE	10.099.950,80				10.099.950,80
SFI	7.816.300,52		1.550.000,00	1.550.000,00	9.366.300,52
Multilateral Institutions	3.294.463.942,10	1.154.979,90	1.781.321,31	2.936.301,21	3.297.400.243,31
Besides the Paris Club	3.485.831.329,36	201.535.940,32	110.199.744,87	311.735.685,19	3.797.567.014,55
Zairianisation	0	140.330.000,00	4.860.000,00	145.190.000,00	145.190.000,00
Grand total	8.592.830.124,63	341.865.940,32	115.059.744,87	456.925.685,19	9.049.755.809,82

Source: DRC Central Bank and the Public Debt Management Board

2.5 The Purposes for which the Funds were Borrowed

The bulk of the money borrowed from foreign donors was used for infrastructure projects in transport and energy. While the idea of infrastructure development in itself was good, the actual projects did not always respond to the country's economic needs. This was the case for some of the airports, ports, bridges, roads and power plants that remain under-utilized or, in some instances, were never used because the corresponding infrastructure and economic activities that were supposed to justify the projects were either not put in place or were not developed as initially agreed upon.

An example of one of these grandiose projects is the Inga Dam. It was built to produce power for the whole of the DRC and some neighbouring countries. The construction of the dam took nearly 10 years and by now, the DRC would be reaping benefits but unfortunately the mid-term commercial loan incurred to build the dam was insufficient due to corruption and embezzlement. The project was initially scheduled for completion in 1978 but was not done so until 1982. The financial projections used to justify the project were based on overly optimistic expectations of copper price increases, mining expansion and rapid economic growth.

The total cost of the project was US\$2 billion in 1983 prices, financed by the US Export-Import bank and the governments of Italy and Sweden. But cost overruns and under estimated costs for foreign managers turned what should have been cheap power into expensive electricity and the country struggled under the heavy debt burden incurred to build and maintain the project. In 1990, Inga generated electricity at only 14% of its capacity. Also, a planned free-trade zone and an aluminium refinery failed to materialize. The Inga-Shaba high voltage lines pass through three provinces but do not supply power to any of them.

As early as 1981, 94% of the DRC's external loans were squandered on projects using unsuitable technology. In some cases, money was borrowed to set up factories and the equipment was imported but it was abandoned at railway terminals or airports and was never installed. This was because of corrupt practices where investors took advantage of incentives offered by the state and received kick backs from the suppliers of the equipment. Among the most glaring examples were the 30 cotton processing plants valued at US\$7.7 million bought by Onafitex, a US-based firm in 1973 but that were never installed.

Further, in many cases, the choice of equipment in terms of size, capacity and the technology that went with it was not suitable for the purpose for which it was intended or did not meet the country's economic needs. Essentially the complex technology became a waste and the investment resulted in disproportionately high operational costs and over reliance on imported technology. And without the necessary backup and maintenance, the plants often stopped functioning. Projects that fall under this category include the setting up of a telecommunications network that was expected to cover almost the whole country through radio links. The project however never really took off due to lack of maintenance and of fuel to power the boosters. Another project was the construction of the National Television and radio broadcasting complex in Kinshasa, that housed all the modern TV and radio broadcasting media at a cost of US\$110 million.

The amount was enough to pay 165 000 Congolese teachers for 5 years.

These white elephant projects led the DRC into a bottomless pit of poverty as the country's debt burden worsened. The latest figures by international experts show that 60 years of hard work and good management are required for the DRC to regain the standard of living and development it enjoyed in 1964, the year it became independent.

3.0 Loan Contraction - Legal and Institutional Framework

The DRC's debt contracting process is centred on Section 122, paragraph 11 of the Constitution which states that: "Notwithstanding clauses of other statutory instruments, the Constitution establishes the rules for the government's borrowings and commitments". In addition, Section 021 of Act 76 of October 1976 made provisions for the establishment of a Public Debt Management Board (OGEDep). The loan contraction process in DRC is also governed by financial cooperation agreements between it and other nations. Examples include the loan agreements between France and the DRC in 1998 or another signed in May 2004 between the ADB and the DRC to fund the agricultural sector and for the rural rehabilitation support projects.

Several government institutions are involved in the loan contraction process, each with a separate responsibility in controlling, monitoring and in the actual contraction of foreign loans. However, although some of them might have existed during the transition phase, their effectiveness will only be fully tested now that there is a democratic dispensation in the country and the government becomes more accountable.

3.1 Public Debt Management Board

The Public Debt Management Board is the first institution that activates the loan contraction process. Under Provision 4 of Act 76/021 of September 1976 Clause 1, the Board drafts and submits the national indebtedness policy for approval by the Finance Department and makes suggestions on all matters relating to public debt contraction.

3.2 Ministry of Finance

Under Provision 2 of the same Act, the Public Debt Management Board's role is confined to drafting debt policy as it falls under the Stabilization Committee and the Ministry of Finance. The Government's role in contracting debt is through the Ministry of Finance. Section 1 of Act 83, in Section 323 enacted of February 1983, amended by ordinance 87-004 of 10th January 1987, states that the Minister of Finance is in charge of making budget allocations.

The Ministry of Finance is responsible for drawing up the budget as stipulated by Articles 33 and 34 of Financial Act No. 83-003 of 1983, modified by Ordinance No. 87-004 of 1987 in its 1st Article. The Ministry is also responsible to ensure the liquidity of the state and the recovery of State resources (current and future). The DRC develops its development programs through the Ministry of Planning, which judiciously follows up the different projects submitted to it and financed by the IFIs and other partners in accordance with already laid down procedures aimed at creating a conducive legal environment and conditions to attract private investors. With the support of the World Bank, the government drew up a new investment code, a mining code, a forestry code and a labour code.

The codes allow for the free exploitation of the country's resources by opening up the economy to investors from the rich north. The orthodox monetary policies that the IFIs have imposed on the DRC have forced it to focus on export-led growth at the expense of national development. While they have helped to eliminate the balance of payment deficit in the country, the policies have contributed to rising poverty levels in the majority of the people.

3.3 Parliament

Parliament sets the legal basis for loans and other financial commitments of the State. Paragraph 11 of Section 122 of the Constitution and Section 175, clauses 1 and 3 states that, "the State's revenue and expenditure budget, that is the budget of members of the Government based in Capital city and that of provinces, is decided upon every year through the rule of law".

Act 83-003 of the Finance Act of February 1983, amended by Act 87-004 of 1987 in Section 9, Paragraph 1 states that: "The State's financial operations in the form of borrowings, loans, guarantees, grants or the acquisition of shares, can only be entered into if it conforms with the law and by the consent of the Minister of Finance who is in charge of budgetary matters".

Paragraph 2 states that "in case of an emergency, loan agreements should be approved by a decree signed by the President of the Republic. In this case, a confirmation bill is immediately tabled to the Legislative Council to confirm the authority". Paragraph 11 of Section 122 of the Constitution stipulates that the role of parliament in debt contraction is to set the rules on Government borrowings and commitments. Parliament, through an act of law, also approves the debts contracted by the Government.

Constitutional and Statutory checks on the Government are supervised by several institutions, including Parliament, the Court of Auditors, the Ministry of Finance, the Supreme Council, the Permanent Accounting Council of Congo and the Finance General Inspectorate.

3.4 The Court of Auditors

Paragraph One Section 178 of the Constitution states that "in the DRC a Court of Auditors falls under the National Assembly". In Paragraph One Section 180, the Constitution states that "Within the parameters set by the law, the Court of Auditors controls the management of the state's finances, public property as well as the provincial accounts, decentralized territories accounts and those of public bodies". And, in paragraph 2 of the same Section, the law states that "every year (the Court of Auditors) should publish a report that is to be handed over to the President of the Republic, to Parliament and to the Government".

The Constitutional provisions in this area are reinforced by ordinance 87-005 of February 1987 which sets out the structure of the Court of Auditors and determines its functions, which include the following:

- Examining the overall accounts of the Treasury;
- Examining the accounts kept by public accountants;
- Controlling and auditing statutory bodies' management and accounts;

3.5 The Supreme Council

Section 2, Act 89-003 of January 1989, sets the mission of the Supreme Council as being responsible for assisting the Executive Council to monitor and audit public corporations and to manage the government's share in semi-public enterprises.

The Permanent Accounting Council of Congo ensures that the accounts of public enterprises are drawn up in accordance to the accounting norms it enacted. The President of the National Assembly says the power of the Permanent Accounting Council of Congo to audit public enterprises should be reinforced and to allow it to set penalties for public enterprises that fail to certify their accounts under the provisions of Section 29 of the law on public enterprises. This law grants the Permanent Accounting Council of Congo the mandate to audit public enterprises and to ensure that their accounts are certified.

3.6 The General Finance Inspectorate

Section 10 of Ordinance 87-323 of September 1987 states the duties and responsibilities of the Finance Inspectorate as the following:

- Preparing and submitting, for the President's approval, the General Finance Inspectorate's annual action plan as well as the ad hoc mission plan;
- Directing inspections and inquiries as scheduled in the annual action plan or in the ad hoc mission plans;
- Preparing quarterly, semi-annual and annual activity reports and comprehensive reports for annual inspection or for inquiries on behalf of the President of the Republic.

It is however important to note that the law does not give any power to impose penalties or punish those responsible for the efficient control of the various institutions using borrowed funds if they abuse the funds.

The Chief Auditor, which is the State's watchdog, ensures that government revenues are directed to the Treasury. Regarding the Republic's General Accounts, Section 173 of the Constitution states that observations made by the Court of Auditors on the general accounts should be submitted every year to the Parliament. However, the Court of Auditors only intervenes during audits to check the correctness and the consistency of the debt, in terms of its clauses and the date of maturity (specifically for the domestic debt). Other institutions are responsible for negotiating and authorising government loans.

Consistency is assessed through observation made after the procedure has been entirely carried out. The report is then sent to Parliament, which takes the appropriate steps.

The allocation of responsibilities during the loan contraction process among the different organisations demonstrates the important role that each of the bodies has in loan contraction and in monitoring how the loans are used.

Regarding external debt, the process slips out of the Court of Auditors' hands as they are consigned to the role of "fire fighters who always arrive late!". Although, according to the law, the Court of Auditors has overall control of the debt contraction process, in reality it does not take any action. This is because there is strong resistance by those in government to all the bodies that should exercise control in the process.

When the Court of Auditors uncovers irregularities, it notes down the offence and reports it to the Attorney General who in turn reports to the Supreme Court for a final decision. In some cases, the Court of Auditors investigated embassies, but not much has come out of the investigations as the reports were never published. The current legal framework does not give to the Court of Auditors power to impose penalties but limits them to making mere observations that are in turn sent to other authorities. This is where everything comes to a standstill as it is up to the higher authorities to take action and in many cases they do not.

3.7 The Central Bank

Article 176 of the constitution states and defines the roles and responsibilities of the Central Bank as the following:

- Being the guardian of public funds;
- Ensuring monetary stability;
- Defining and implementing monetary policy;
- Controlling all banking activities;

In addition to the provisions under the constitution, Act No. 005-2002 of 2002, which touches on the functions of the Central Bank, states that it should "participate in the negotiation of all international agreements and in the modes of payment (for loans) and how these will be guaranteed".

3.8 Civil Society

Before 1990, civil society in the DRC was not well-organised. It was only after 1990 that it started to organise itself and to start taking the social demands of the population seriously. But even then, because of lack of capacity, civil society organisations in the DRC did not have a clear idea about the external debt issues in their country. It was only in 1997 that the National Council of NGOs Concerned with the Development of Congo (CNONGD) took on the debt issue. This led to the setting up of the Forum on External Debt and Development of the Congo, FOEXD as a research department responsible for analysing foreign debt issues and their consequences on the lives of people. The Forum also started to campaign for unconditional debt cancellation and mobilised other civil society organisations to rally behind its call. Currently, a multitude of local NGOs are working in the DRC. The database of NGOs available on the RDC civil society's Website alone contains 376 names (societecivile.cd n.d.a).

Most of these NGOs organize awareness activities, promote human rights, and monitor and publish reports on human rights abuses against the population. However, despite their dedicated efforts to meet the needs of victims of violence, local NGOs generally lack the infrastructure and financial means to extend their assistance to taking in victims. From the start, civil society's approach to the debt crisis was radically different from that of the government.

While the government played the good student of the World Bank and IMF structural adjustment programmes, to qualify for debt forgiveness under the HIPC initiative, civil society demanded unconditional cancellation of all external debts. Although civil society became active on debt issues after most of the loans had been contracted, it still has an important role to lobby for debt cancellation and to monitor new debt that the government takes.

Civil society has created room for its participation in the debt debate in the DRC with great success. Its increased participation should contribute to proper debt management by the state and the reduction in the number of loans that do not benefit the people. It will also facilitate a process where citizens have greater control.

The experience that the Democratic Republic of Congo went through shows how irresponsible management of public debts can have adverse consequences on the lives of a country's citizens. It is therefore necessary for Civil Society to put greater effort towards more meaningful and effective participation in monitoring the country's external debts. To do this, civil society has to build its own capacity to analyse different aspects of the loan contraction process and to create linkages with the government to facilitate dialogue.

3.9 Loan Contraction in a Post-Conflict Nation

Donor agencies have adopted special procedures to assist operational departments and country directors in formulating and implementing programmes in conflict-affected countries. Collecting information is an important part of the process. Studying the conflict assists in developing sensitivity, strengthen knowledge generation, best practices capacity and peacekeeping missions worldwide. Areas of emphasis in a post-conflict context include education, international governance of trade in primary commodities, community-driven development, best practices in needs assessments and the use of multi-donor trust funds.

War has complicated for the DRC what are already challenging issues for developing countries; debt and development. The task for DRC following the civil and regional wars was to normalize relations with multilateral donors. This generally requires six steps:⁷

1. The indebted country must form an internationally recognised government, which would thus articulate a functioning voice in the loan contraction process. DRC held successful presidential elections in 2006.
2. The government must establish the political will domestically to normalize relations and build capacity for debt management. With the democratically elected parliament and government in the Democratic Republic of Congo now, there is hope that efficient guidelines will be put in place to better manage future loans. The best guarantee for success will be to create conditions that will enable civil society and Parliament to interact in order to control and manage how future debts will be used.
3. The country should undertake debt reconciliation to establish the actual level of debt, its nature, and the lenders of the outstanding stock of external debt. By 2003, 83% of the net present value of DRC's total debt stock was reconciled.
4. The country has to re-establish relations with the IMF and other international donors in the hopes of rebuilding confidence. This may be done by making regular payments to an IFI. To rebuild confidence, the DRC authorities committed to depositing SDR100, 000 per month from 2001 with the Bank of International Settlements. Its account is monitored by the IMF.
5. The government must develop a national debt management policy and implement it with its partners. The DRC and the IMF signed a memorandum of understanding in June 2006. The PRGF had been supported by IMF since 2002. However, DRC had not observed the performance criteria, which included net credit to the public sector and other quantitative indicators and slow implementation of structural reforms. The MOU has specified development objectives that DRC has committed to, which include keeping inflation under 19%, maintaining social spending, combating fraud in tax administration, and keeping the public wage bill capped at 4.7% of GDP of 2006., among others. There was also an agreement to establish a staff monitoring programme. The MOU specifies the information that is to be reported to IMF staff.
6. Finally, the government can enter into debt relief negotiations with its donors.

⁷Borrowed from Alvarez-Plata and Bruck (2006)

Its creditors, having distinct agendas, could not undertake a uniform policy in dealing with DRC. The aims of the London Club are to ensure the equal treatment of private bank lenders by the borrower and to allow the borrower to regain credit worthiness. However, it has no explicit policy regarding post-conflict debt. The main purpose of the Paris Club has been to provide a framework for re-scheduling debt between OECD creditor governments and low income countries. While it also has no standard policy regarding post-conflict countries, it has in the past provided grants to assist these countries in servicing their multilateral debts. However, it did not consider DRC during its civil war, as it does not meet regularly to review a country's capacity to manage its debt. It also has no peer review mechanism.

3.9.1 Example of a Credit Process

In 2002, the Congolese government entered into a contract for a public debt with sponsors and was given a loan by the World Bank for an initial US\$1.7 million. It was approved through a Multi-Sectoral Program of Urgent Rehabilitation and Reconstruction (MPURR). In addition to these funds from WB, the Chinese offered to rehabilitate the railway terminals themselves, and the Belgian government released 500 million Euros after signing a protocol agreement with the DRC. It was made up of an interministerial committee headed by the Minister of Planning, who has several sectoral concerns including infrastructure, social and agricultural development. Eventually, another US\$58 million was raised to rehabilitate the energy sector. The work was never done, and the embezzlement of those funds by government officials has been implicated. This project is one of many, which revealed that the issue of accountability is paramount in a conflict-ridden nation.

With this in mind, the African Development Bank, World Bank and IMF have provided technical assistance to DRC in order that that may put into place an information system for debt management, which is being maintained by the Office of Public Debt Management. It is meant to serve as a framework to coordinate loans and national plans for development; DRC is currently focusing on the areas of developing capacity of civil service, agriculture and infrastructure. Consultants are meant to be engaged periodically to assure that the coordination is taking place and perform an audit of the funds. In addition, there are roundtable organised by UNDP and the National Commission for Disarmament, Demobilisation and Reinsertion to ensure that loans taken on match the nation's priorities. Further, the harmonization of donors is assured by the WB and IMP during regular joint reviews.

Recent successful elections in the DRC have given the impression that it is entering a new era, and there are now several joint donor initiatives. Donor coordination now exists in a few sectors, mainly in agriculture, justice and human rights. An anti-corruption strategy has been focused on during participatory workshops in 2002. Finally, the EC, Belgium, Canada, and France have resumed economic assistance. The Emergency Multi-Sector Rehabilitation and Reconstruction Program is a joint initiative to enhance food security and rehabilitate infrastructure. The grant was approved by the World Bank in 2005. It is essentially a single framework for financing public investment and reconstruction. It focuses on reforming the public service and the justice sector.

Finally, the Good Humanitarian Donorship (GHD) Initiative is being spearheaded by the Netherlands. It is based on the belief that strong donor coordination contributes to aid effectiveness. It aims to make sure that donors' commitments are translated into practice.

4.0 Multilateral Debt Relief Initiative and MDGs

On 28 July 2003, the Democratic Republic of Congo (DRC) became the 27th country to reach Decision Point under the Enhanced Heavily Indebted Poor Country (HIPC) Initiative. However, more still needs to be done in terms of ensuring that the international community cancel the full amount owed by the DRC in order to free up resources, which could then be spent on poverty reduction and meeting the MDGs. Considering the poverty situation and post conflict trauma in the country, it is not necessary to ask the DRC to go through the HIPC surgery before it qualifies for the total cancellation of its heavy debt burden. The DRC will have huge difficulties in meeting the MDGs unless its debt is cancelled. Much of DRC's debt has been regarded as illegitimate and odious since it was incurred by the Mobutu regime without the consent and was not used for the benefit of the Congolese people in the country.

Multilateral Debt Relief is the latest phase of debt reduction for poor countries from organizations like the World Bank, IMF, and African Development Bank. The DRC has not yet benefited from such since it is yet to reach the HIPC completion point. In 2006 the DRC failed to achieve the performance targets to reach the completion point under the HIPC. It now has to implement another programme before the end of 2007 to qualify. If it meets the targets, it will reach the completion point and benefit from debt cancellation to the level envisaged under HIPC's Multilateral Debt Relief Initiative (MDRI).

The Multilateral Debt Relief Initiative will not bring fresh cash into the country, but will redirect the funds that the government would have used for debt repayment into the social sectors to benefit the poor. Diverting resources meant for debt repayment towards social spending assumes that the government had set aside money for debt repayment in the first place. So there is need for developed countries to increase aid to kick start growth as there might not be much savings from debt cancellation. Debt cancellation should therefore not be confused with the provision of development finance as it will not bring new money into the country.

4.1 The Status of the Millennium Development Goals

The recent regional conflict has put DRC off track with respect to the MDGs. According to a study published by the Ministry of Planning, poverty levels are very high in the DRC. GDP per capita was estimated at \$99 in 2001⁸. Average income levels per capita fell from \$1.30 in 1973 to \$0.91 in 1974 and \$0.30 in 1998. The country has been plunged into absolute poverty with the average Congolese earning well below the poverty line as incomes continued to decline by an average of 3.08% annually up to 1998.

Current poverty alleviation strategies as elaborated under the DRC's Poverty Reduction Growth Facility (PRGF) will not help the country to achieve the MDGs within the stipulated period as they mainly focus on growth that is not necessarily people-centred. In the short term, the massive privatisations, the liberalisation of the markets and of foreign exchange as well as the removal of subsidies will result in increased poverty. For instance, the liberalisation of the textile industry that was introduced in January 2005 resulted in thousands of workers losing their jobs. However a long period of sustained economic growth coupled with policies to achieve greater equity in income distribution will speed up the achievement of the goals.

The PRSP forecasts that the DRC will attain a growth rate of 8 percent by 2009, but even if this is maintained over a long period, the country will not be able to achieve its MDG targets by 2015 given the low level from which it is coming. It has been calculated that if the economy were to grow by 5 percent or more in real terms, it would take 70 years to return to the per head income levels of 1960⁹.

⁸UNDP (2003) Human Development Report, Oxford University Press, New York

⁹Economist Intelligence Unit (2003) Country Profile, Democratic Republic of Congo, 2003 Main Report

5.0 Conclusion

Poor public debt management in the Democratic Republic of Congo was largely the result of poor governance by the government, regional and civil strife. Recent elections and financial commitments by the government of DRC offer new hope for greater accountability in the loan contraction process and for an increased monitoring role for civil society. Post-war credibility must be re-build fairly quickly in the DRC.

Until recently, the political will to tackle the DRC's debt was missing, resulting in the haemorrhaging of the country's resources. There were also no serious attempts or strategies to prevent a future debt crisis from arising.

Given the new found political will, characterised by the current successful efforts to stabilise the economy through sound macro economic policies (inflation has gone down from over 500 percent just a year ago to under 10 percent currently), there is need for both the government and civil society to think through the steps that need to be taken to deal with the current debt crisis and prevent a future recurrence of such. The Democratic Republic of Congo should continue to build on the principles of democracy, good governance and accountability that are necessary to prevent the recurrence of the same mistakes that plunged the country into the debt crisis.

While the mechanisms exist for effective control and management of debt they will only be as effective to the extent that the government abides by the rule of law and does not infringe its own rules. Until recently, civil society in the DRC was not involved in debt discussions, which was one of the major weaknesses of the structural adjustment programmes. It was only from 1998 that civil society in Congo became involved. Civil society's approach to the debt issue however differed significantly from that of the government which embraced the HIPC conditionalities while civil society campaigned for outright debt cancellation. Despite these differences, there is need for dialogue between the two parties to create a common platform to address the country's development priorities.

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